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A
COLLECTION
OF
THE ACTS
OF
THE INDIAN LEGISLATURE AND OF THE
GOVERNOR GENERAL
FOR THE YEAR
1923

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TITLES OF ACTS

OF

THE INDIAN LEGISLATURE AND OF THE GOVERNOR GENERAL

FOR THE YEAR 1923

- I. An Act further to amend the Criminal Tribes Act, 1911.
- II. „ to supplement the Malabar (Completion of Trials) Act, 1922
- III. „ to provide for the restriction and control of the transport of cotton in certain circumstances.
- IV. „ to amend and consolidate the law relating to the regulation and inspection of mines.
- V. „ to consolidate and amend the law relating to steam-boilers.
- VI. „ further to amend and to consolidate the law relating to the provision of house-accommodation for military officers in Cantonments.
- VII „ to give effect in British India to the Treaty for the Limitation of Naval Armament.
- VIII „ to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident.
- IX. „ further to amend the Indian Factories Act, 1911.
- X. „ to consolidate the law relating to the Government Paper Currency.
- XI „ to amend certain enactments and to repeal certain other enactments.
- XII „ further to amend the Code of Criminal Procedure, 1898, the European Vagrancy Act, 1874, the Indian Limitation Act, 1908, and the Central Provinces Courts Act, 1917, in order to provide for the removal of certain existing discriminations between European British subjects and Indians in criminal trials and proceedings.
- XIII „ further to amend the Married Women's Property Act, 1874.
- XIV. „ to provide for the creation of a fund for the improvement and development of the growing, marketing and manufacture of cotton in India
- XV. „ to amend the Indian Income-tax Act, 1922.

- XVI. An Act further to amend the Government Savings Banks Act, 1873.
- XVII. „ to amend section 29 of the Prisoners Act, 1900
- XVIII. „ further to amend the Code of Criminal Procedure 1898, and the Court-fces Act, 1870.
- XIX. „ to consolidate and amend the law in British India relating to official secrets.
- XX. „ to give effect to certain Articles of the International Convention for the suppression of the traffic in women and children.
- XXI. „ to consolidate certain enactments relating to Merchant Shipping.
- XXII. „ to declare the law in force in certain territories of the district of Sambalpur and to provide that the past administration of those territories shall not be called in question on the ground that they were not included in the territories administered by the Government of the Central Provinces.
- XXIII. „ for the removal of doubts regarding the right of women to be enrolled and to practise as legal practitioners.
- XXIV. „ to provide for the forfeiture of the estates and other property of Mahendra Parlab Singh and for their grant to his son, subject to certain conditions.
- XXV. „ to modify certain provisions of the Indenture confirmed by the Moorshedabad Act, 1891.
- XXVI. „ further to amend the Code of Civil Procedure, 1908 for certain purposes.
- XXVII. „ further to amend the Indian Income-tax Act, 1922 for certain purposes.
- XXVIII. „ to repeal the Acts which provide for the levy of a cess on indigo exported from British India.
- XXIX. „ further to amend the Code of Civil Procedure, 1908.
- XXX. „ further to amend the Special Marriage Act, 1872.
- XXXI. „ to amend the Indian Territorial Force Act, 1920, and the Auxiliary Force Act, 1920, for certain purposes.
- XXXII. „ further to amend the Indian Lunacy Act, 1912.
- XXXIII. „ further to amend the Indian Army Act, 1911, and the Indian Lunacy Act, 1912, for certain purposes.
- XXXIV. „ to amend the Cutchi Memons Act, 1920.
- XXXV. „ further to amend the Code of Criminal Procedure, 1898.
- XXXVI. „ further to amend the Indian Paper Currency Act, 1923.
- XXXVII. „ further to amend the Code of Criminal Procedure, 1898, for certain purposes.
- XXXVIII. „ further to amend the Land Acquisition Act, 1894, for certain purposes.

- XXXIX. An Act further to amend the Indian Ports Act, 1908.
- XL. „ further to amend the Indian Electricity Act, 1910.
- XLI. „ to amend the Charitable and Religious Trusts Act, 1920
- XLII. „ to make provision for the better management of wakf property and for ensuring the keeping and publication of proper accounts in respect of such properties.
- XLIII. „ further to amend the Indian Stamp Act, 1899.
- “An Act to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary the duty leviable on certain articles under the Indian Tariff Act, 1894, to fix maximum rates of postage under the Indian Post Office Act, 1898, to amend the Indian Paper Currency Act, 1923, and to fix rates of income-tax.

No number was given to this Act which was made by the Governor General under section 67B of the Government of India Act.

ACT No. I OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 1st February, 1923.)

An Act further to amend the Criminal Tribes Act, 1911.

f 1911. **WHEREAS** it is expedient further to amend the Criminal Tribes Act, 1911; It is hereby enacted as follows :—

1. This Act may be called the Criminal Tribes Short title. (Amendment) Act, 1923.

of 1911. **2.** In section 2 of the Criminal Tribes Act, 1911 (hereinafter referred to as the said Act),— Amendment of section 2, Act III of 1911.

(a) after clause (1) the following clauses shall be inserted, namely :—

“(1a) ‘district’ includes a Presidency-town and the town of Rangoon;

(1b) ‘District Magistrate’ means, in the case of a Presidency-town or the town of Rangoon, the Commissioner of Police”; and

(b) after clause (2) the following clause shall be inserted, namely :—

“(2a) ‘Superintendent of Police’ means, in the case of a Presidency-town or the town of Rangoon, any officer appointed by the Local Government to perform the duties of a Superintendent of Police under this Act.”

3. In section 4 of the said Act, the words “or of any part thereof” shall be omitted. Amendment of section 4, Act III of 1911.

4. In

Amendment
of section 5,
Act III of
1911.

4. In section 5 of the said Act,—

- (a) for the words “a notice” the word “notice” shall be substituted;
- (b) the words “or of such part thereof as is directed to be registered” shall be omitted; and
- (c) in the proviso, the words “or part thereof” shall be omitted, and after the word “registration” the words “and may cancel any such exemption” shall be added.

Amendment
of section 13,
Act III of
1911.

5. In section 13 of the said Act, after the word “settled” the following shall be added, namely:—

“and any officer empowered in this behalf by the Local Government may, by order in writing, vary any notification made under section 11 or under this section by directing the restriction of such criminal tribe to another area, or, as the case may be, its settlement in another place, in the same district.”

Insertion of
new section
13A in Act
III of 1911.
Power of
Local
Government
to restrict or
settle criminal
tribe in
another
province.

6. After section 13 of the said Act, the following section shall be inserted, namely:—

“13A. Any notification made by the Local Government under section 11 or section 13 may specify, as the area to which the criminal tribe shall be restricted or as the place in which it shall be settled, an area or place situated in any other province, provided that the consent of the Local Government of that province shall first have been obtained.”

Substitution
of new section
for section 15,
Act III of
1911.

7. For section 15 of the said Act, the following section shall be substituted, namely:—

Application
of Act when
criminal tribe
is transferred
from one
province or
district to
another.

“15. (1) Where a criminal tribe is restricted in its movements to an area, or is settled in a place of residence, situated in a province other than that by the Local Government of which the notification under section 3 relating to such criminal tribe was issued, all the provisions of this Act and the rules made hereunder shall apply to the criminal tribe as if the notification

notification had been issued by the Local Government of such other province.

(2) If a criminal tribe, having been registered under section 4 in any district, is restricted in its movements to an area, or is settled in a place of residence, situated in another district (whether in the same province or not), the register or any relevant entries or entry therein shall be transferred to the Superintendent of Police of the last-mentioned district, and all the provisions of this Act and the rules made hereunder shall apply as if such criminal tribe had been registered in that district, and the District Magistrate of that district shall have power to cancel any exemption granted under section 5."

8. In section 16 of the said Act, the words "Governor General in Council or the" and the words "or any part thereof" shall be omitted; and to the same section the following proviso shall be added, namely:—

Amendment
of section 16,
Act III of
1911.

"Provided that no criminal tribe shall be placed in a settlement unless the necessity for so placing it has been established to the satisfaction of the Local Government, after an inquiry held by such authority and in such manner as may be prescribed."

9. In section 18 of the said Act,—

Amendment
of section 18,
Act III of
1911.

- (a) after the words "Local Government" the words "or any officer authorised by it in this behalf" shall be inserted; and
- (b) in clause (b), the word "like" shall be omitted.

10. In sub-section (2) of section 20 of the said Act,—

Amendment
of section 20,
Act III of
1911.

- (a) after clause (e) the following clause shall be inserted, namely:—

"(ee) the circumstances in which members of a criminal tribe shall be required to

to possess and produce for inspection certificates of identity, and the manner in which such certificates shall be granted ;” and

(b) after clause (h) the following clause shall be inserted, namely :—

“(hh) the authority by whom and the manner in which the inquiry referred to in section 16 shall be held.”

Amendment
of section 22,
Act III of
1911.

11. In section 22 of the said Act,—

(a) to sub-section (1) the words “or with fine which may extend to five hundred rupees, or with both” shall be added ;

(b) in sub-section (2), for the words “a rule made under any other clause of” the words “any other rule made under” shall be substituted ; and

(c) after sub-section (2) the following sub-section shall be added, namely :—

“(3) Any person who commits or is reasonably suspected of having committed an offence made punishable by this section which is not a cognizable offence within the meaning of the Code of Criminal Procedure, 1898, may be arrested without ^{V of 1898.} a warrant by any officer in charge of a police-station or by any police-officer not below the rank of a sub-inspector.”

Insertion of
new sections
27A and 27B
in Act III of
1911.

12. After section 27 of the said Act the following sections shall be inserted, under the heading “Supplemental”, namely :—

Power to
deport certain
criminal tribes
to States in
India.

“27A. The Local Government, if it is satisfied that adequate provision has been made by the law of any State in India for the restriction of the movements or the settlement in a place of residence of persons such as are referred to in section 3, and for securing the welfare of persons so restricted or settled, may, with the consent of the Prince or Chief of that State, direct the removal to that State of

any

OF 1923.] *Criminal Tribes (Amendment)*.

any criminal tribe for the time being in the province, and may authorise the taking of all measures necessary to effect such removal:

Provided that no person shall be so removed if the Local Government is satisfied that he is a subject of His Majesty.

27B. The references to a criminal tribe in sections 4, 5, 14, 17 and 27A, shall be deemed to be references to a criminal tribe or any part thereof, and the like references in sections 11, 13, 13A, 15 and 16 shall be deemed to be references to a criminal tribe or any part or member thereof."

References to a criminal tribe to include references to part or member thereof in certain cases.

CALCUTTA
SUPERINTENDENT GOVERNMENT PRINTING, INDIA
8, HASTINGS STREET

ACT No. II OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the 16th
February, 1923.)*

An Act to supplement the Malabar (Completion of Trials) Act, 1922.

Mad. Act I
of 1923.

WHEREAS it is expedient to supplement the Malabar (Completion of Trials) Act, 1922 ; It is hereby enacted as follows :—

1. This Act may be called the Malabar (Completion of Trials) Supplementing Act, 1923. Short title.

III of 1922. 2. On the expiration of the Malabar (Completion of Trials) Ordinance, 1922, and notwithstanding such expiration, an appeal shall lie to the High Court of Judicature at Madras in any case in which an appeal would have lain to that Court but for such expiration, and every such appeal and every appeal presented to the High Court under that Ordinance before the date of such expiration shall be heard and decided by the High Court. Appeals to lie notwithstanding expiration of Ordinance III of 1922.

**SUPERINTENDENT GOVERNMENT PRINTING, INDIA
8, HASTINGS STREET
CALCUTTA**

ACT No. III OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 23rd February, 1923.)

An Act to provide for the restriction and control of the transport of cotton in certain circumstances.

WHEREAS it is expedient for the purpose of maintaining the quality and reputation of the cotton grown in certain areas in British India to enable the restriction and control of the transport by rail and the import of cotton into those areas; It is hereby enacted as follows:—

1. (1) This Act may be called the Cotton Short title and extent. Transport Act, 1923.

(2) It extends to the whole of British India.

2. In this Act, unless there is anything Definitions. repugnant in the subject or context,—

(a) “certified copy,” in relation to a licence, means a copy of the licence certified in the manner described in section 76 of the Indian Evidence Act, 1872, by the authority by which the licence was granted;

(b) “cotton ” means every kind of unmanufactured cotton, that is to say, ginned and unginned cotton, cotton waste and cotton seed;

(c) “cotton waste ” means droppings, stripings, fly and other waste products of a cotton-mill other than yarn waste;

(d) “licence ” means a licence granted under this Act;

(e) “notified

I of 1872.

- (e) “ notified station ” means a railway station specified in a notification under section 3;
- (f) “ prescribed ” means prescribed by rules made under this Act; and
- (g) “ protected area ” means an area into which the import of cotton or of any kind of cotton has been prohibited by a notification under section 3.

Power to
issue notifica-
tion prohibit-
ing import of
cotton into
protected
area.

3. (1) The Local Government may, for the purpose of maintaining the quality or reputation of the cotton grown in any area in the Province, by notification in the local official Gazette, prohibit the import of cotton or of any specified kind of cotton into that area save under, and in accordance with the conditions of, a licence :

Provided that no such notification shall be deemed to prohibit the import into any protected area of packages containing any kind of cotton and not exceeding ten pounds avoirdupois weight.

(2) Any such notification may prohibit the delivery to, and the taking of delivery by, any person, at any specified railway station situated in the protected area, of any cotton, the import of which into that area is prohibited when such cotton has been consigned from a railway station not situated in that area, unless such person holds a licence for the import of the cotton into that area.

Refusal
to carry
unlicensed
cotton.

4. (1) Notwithstanding anything contained in the Indian Railways Act, 1890, or any other law for IX of 1890. the time being in force, the station master of any railway station or any other railway servant responsible for the booking of goods or parcels at that station may refuse to receive for carriage at, or to forward or allow to be carried on the railway from, that station any cotton consigned to a notified station, being cotton of a kind of which the delivery at such notified station has been prohibited unless both stations are in the same protected area, or unless the consignor produces a certified copy of a licence

for

for the import of the cotton into the protected area in which such notified station is situated.

(2) Every certified copy of a licence when so produced shall be attached to the invoice or way-bill, as the case may be, and shall accompany the consignment to its destination, and shall there be dealt with in the prescribed manner.

(3) Where by or under any law in force in the territories of any State in India the import into any area, or the delivery at any railway station, of cotton or of any kind of cotton has been prohibited, the Governor General in Council may, by notification in the Gazette of India, declare that the provisions of sub-section (1) shall apply in respect of cotton consigned to any such station as if such area and such station were respectively a protected area and a notified station, and as if any licence granted under such law were a licence granted under this Act.

5. (1) Where any cotton, the import of which into any protected area has been prohibited, has been consigned to and arrives at a notified station in any such protected area, the station master or other railway servant responsible for the receipt and delivery to the consignee of goods or parcels, as the case may be, at that station shall, unless both the notified station and the railway station from which the cotton has been consigned are situated in the same protected area, refuse to deliver the cotton until he is satisfied that the consignee holds a licence for the import of the cotton into the protected area in which such notified station is situated; and, if he is not so satisfied, or if within fourteen days the consignee or some person acting on his behalf does not appear in order to take delivery, shall return the cotton to the railway station from which it was consigned, together with an intimation that delivery of the cotton has been refused or has not been taken, as the case may be.

Procedure
where cotton
arrives at
notified sta-
tion.

(2) Any station master or other railway servant receiving any cotton returned under sub-section (1), or returned with a like intimation from a railway station

station specified in a notification under sub-section (3) of section 4, shall cause to be served on the consignor in any manner authorised by section 141 of the Indian Railways Act, 1890, a notice stating that ^{IX of 1890.} the cotton has been so returned and requiring the consignor to pay any rate, terminal or other charges due in respect of the carriage of the cotton to and from the railway station to which it was consigned, and such charges shall be deemed to be due from the consignor for all the purposes of section 55 of that Act.

Penalties

6. Any person who, in contravention of the provisions of this Act or of any notification or rule made hereunder, knowingly takes delivery of any cotton from a notified station or imports, or attempts to import, any cotton into a protected area, and any station master or other railway servant who, in contravention of the provisions of sub-section (1) of section 5, without reasonable excuse, the burden of proving which shall lie upon him, delivers any cotton to a consignee or other person, shall be liable to a fine not exceeding one thousand rupees, and upon any subsequent conviction to imprisonment which may extend to three months, or to fine which may extend to five thousand rupees, or to both.

Power to make rules.

7. (1) The Local Government may, by notification in the local official Gazette, make rules to provide for any of the following matters, namely —

- (a) the prevention of the import into a protected area by road, river or sea, save under and in accordance with the conditions of a licence, of cotton the import of which into that area has been prohibited by a notification under section 3;
- (b) the terms and conditions to be contained in licences and the authorities by which they may be granted; and
- (c) the manner in which licences and certified copies thereof shall be dealt with on and after the delivery of the cotton to which they relate.

(2) Any

(2) Any such rules may provide that any contravention thereof or of the conditions of any licence, not otherwise made punishable by this Act, shall be punishable with fine which may extend to five hundred rupees.

8. No notification under section 3 or rule under section 7 shall be issued by the Local Government of any Governor's Province, unless it has been laid in draft before the Legislative Council of the Province, and has been approved by a Resolution of the Legislative Council, either with or without modification or addition, but upon such approval being given the notification or rule, as the case may be, may be issued in the form in which it has been so approved.

Previous approval of Local Legislature to issue of notifications and rules.

9. No suit or other legal proceeding shall be instituted against any person in respect of anything which is in good faith done or intended to be done under this Act.

Protection for acts done under Act.

CALCUTTA
SUPERINTENDENT GOVERNMENT PRINTING, INDIA
8, HASTINGS STREET

ACT NO. IV OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 23rd February, 1923.)

An Act to amend and consolidate the law relating to the regulation and inspection of mines.

WHEREAS it is expedient to amend and consolidate the law relating to the regulation and inspection of mines; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Indian Mines Act, 1923. Short title, extent and commencement.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) It shall come into force on the first day of July, 1924.

2. Nothing in this Act shall be construed to affect the provisions of the Upper Burma Ruby Regulation, 1887. Saving of Reg. XII of 1887.

3. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(a) “agent,” when used in relation to a mine, means any person appointed or acting as the representative of the owner in respect of the management of the mine or

of

of any part thereof, and as such superior to a manager under this Act;

(b) “ Chief Inspector ” means the Chief Inspector of Mines appointed under this Act;

(c) “ child ” means a person under the age of thirteen years;

(d) a person is said to be “ employed ” in a mine who works under appointment by or with the knowledge of the manager, whether for wages or not, in any mining operation, or in cleaning or oiling any part of any machinery used in or about the mine, or in any other kind of work whatsoever incidental to, or connected with, mining operations;

(e) “ Inspector ” means an Inspector of Mines appointed under this Act, and includes a District Magistrate when exercising any power or performing any duty of an Inspector which he is empowered by this Act to exercise or perform;

(f) “ mine ” means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on, and includes all works, machinery, tramways and sidings, whether above or below ground, in or adjacent to or belonging to a mine :

provided that it shall not include any part of such premises on which a manufacturing process is being carried on unless such process is a process for coke making or the dressing of minerals;

(g) “ owner,” when used in relation to a mine, means any person who is the immediate proprietor or lessee or occupier of the mine or of any part thereof, but does not include a person who merely receives a

royalty,

royalty, rent or fine from the mine, or is merely the proprietor of the mine subject to any lease, grant or license for the working thereof, or is merely the owner of the soil and not interested in the minerals of the mine; but any contractor for the working of a mine or any part thereof shall be subject to this Act in like manner as if he were an owner, but not so as to exempt the owner from any liability;

- (h) “prescribed” means prescribed by regulations, rules or bye-laws;
- (i) “qualified medical practitioner” means any person registered under the Medical Act, 1858, or any Act amending the same or under any Act of any Legislature in British India providing for the maintenance of a register of medical practitioners, and includes, in any area where no such last-mentioned Act is in force, any person declared by the Local Government, by notification in the local official Gazette, to be a qualified medical practitioner for the purposes of this Act;
- (j) “regulations,” “rules” and “bye-laws” mean respectively regulations, rules and bye-laws made under this Act;
- (k) “serious bodily injury” means any injury which involves, or in all probability will involve, the permanent loss of the use of, or permanent injury to, any limb, or the permanent loss of or injury to the sight or hearing, or the fracture of any limb or the enforced absence of the injured person from work for a period exceeding twenty days; and
- (l) “week” means the period between midnight on Saturday night and midnight on the succeeding Saturday night.

21 & 22 Vict.
c. 90.

CHAPTER II.

INSPECTORS.

Chief Inspector and Inspectors.

4. (1) The Governor General in Council may, by notification in the Gazette of India, appoint a duly qualified person to be Chief Inspector of Mines for the whole of British India, and duly qualified persons to be Inspectors of Mines subordinate to the Chief Inspector.

(2) No person shall be appointed to be Chief Inspector or an Inspector, or, having been appointed shall continue to hold such office who is or becomes directly or indirectly interested in any mine or mining rights in India.

(3) The District Magistrate may exercise the powers and perform the duties of an Inspector subject to the general or special orders of the Local Government :

Provided that nothing in this sub-section shall be deemed to empower a District Magistrate to exercise any of the powers conferred by section 19 or section 32.

(4) The Chief Inspector and every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code.

XLV of 1860.

Functions of Inspectors.

5. (1) The Chief Inspector may, by order in writing, prohibit or restrict the exercise by any Inspector named, or any class of Inspectors specified, in the order of any power conferred on Inspectors by this Act, and shall, subject as aforesaid, declare the local area or areas within which, or the group or class of mines with respect to which, Inspectors shall exercise their respective powers.

(2) The Inspector shall give information to owners, agents and managers of mines, situate within the local area or areas or belonging to the group or class of mines, in respect of which he exercises powers under sub-section (1) as to all regulations and rules which concern them respectively and as to

the

the places where copies of such regulations and rules may be obtained.

6. The Chief Inspector and any Inspector may— Powers of
Inspectors
of Mines.

(a) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and of the regulations, rules and bye-laws and of any orders made thereunder are observed in the case of any mine;

(b) with such assistants (if any) as he thinks fit, enter, inspect and examine any mine or any part thereof at any reasonable time by day or night, but not so as unreasonably to impede or obstruct the working of the mine;

(c) examine into, and make inquiry respecting, the state and condition of any mine or any part thereof, the ventilation of the mine, the sufficiency of the bye-laws for the time being in force relating to the mine, and all matters and things connected with or relating to the safety of the persons employed in the mine.

7. Any person in the service of the Government duly authorised by a special order in writing of the Chief Inspector or of an Inspector in this behalf may, for the purpose of surveying, levelling or measuring in any mine, after giving not less than three days' notice to the manager of such mine, enter the mine and may survey, level or measure the mine or any part thereof at any reasonable time by day or night, but not so as unreasonably to impede or obstruct the working of the mine. Powers of
special officer
to enter, mea-
sure, etc.

8. Every owner, agent and manager of a mine shall afford the Chief Inspector and every Inspector and every person authorised under section 7 all reasonable facilities for making any entry, inspection, survey, measurement, examination or inquiry under this Act. Facilities to
be afforded to
Inspectors.

9. (1) All

Secrecy of
information
obtained.

9. (1) All copies of, and extracts from, registers or other records appertaining to any mine, and all other information acquired by the Chief Inspector or an Inspector or by any one assisting him, in the course of the inspection of any mine under this Act or acquired by any person authorised under section 7 in the exercise of his duties thereunder, shall be regarded as confidential.

(2) If the Chief Inspector, or an Inspector or any other person referred to in sub-section (1) discloses to any one, other than a Magistrate or an officer to whom he is subordinate, any such information as aforesaid without the consent of the Governor General in Council or of the Local Government, he shall be guilty of a breach of official trust, and shall be punishable in the manner provided by section 4 of the Indian Official Secrets Act, 1889.

XV of 1889.

(3) No Court shall proceed to the trial of any offence under this section except on complaint made by order of, or under authority from, the Governor General in Council or the Local Government, or made by a person aggrieved by the offence.

CHAPTER III.

Mining Boards and Committees.

Mining
Board.

10. (1) The Local Government may constitute for the province, or for any part of the province, or for any group or class of mines in the province, a Mining Board consisting of—

- (a) a person in the service of the Government, not being the Chief Inspector or an Inspector, nominated by the Local Government to act as chairman;
- (b) the Chief Inspector or an Inspector;
- (c) two persons, neither of whom shall be the Chief Inspector or an Inspector nominated by the Local Government, of whom

whom one shall be a person qualified to represent the interests of persons employed in mines;

- (d) two persons nominated by owners of mines or their representatives in such manner as may be prescribed.

(2) The chairman shall appoint a person to act as secretary to the Board.

(3) The Local Government may give directions as to the payment of travelling expenses incurred by the secretary or any member of any such Mining Board in the performance of his duty as such secretary or member.

11. (1) Where under this Act any question relating to a mine is referred to a Committee, the Committee shall consist of—

Committees.

- (a) a chairman nominated by the Local Government or by such officer or authority as the Local Government may authorise in this behalf;

- (b) a person nominated by the chairman and qualified by experience to dispose of the question referred to the Committee; and

- (c) two persons of whom one shall be nominated by the owner, agent or manager of the mine concerned, and the other shall be nominated by the Local Government to represent the interests of the persons employed in the mine.

(2) No Inspector or person employed in or in the management of any mine concerned shall serve as chairman or member of a Committee appointed under this section.

(3) Where an owner, agent or manager fails to exercise his power of nomination under clause (c) of sub-section (1), the Committee may, notwithstanding such failure, proceed to inquire into and dispose of the matter referred to it.

(4) The

(4) The Committee shall hear and record such information as the Chief Inspector or the Inspector, or the owner, agent or manager of the mine concerned, may place before it, and shall intimate its decision to the Chief Inspector or the Inspector and to the owner, agent or manager of the mine, and shall report its decision to the Local Government.

(5) On receiving such report the Local Government shall pass orders in conformity therewith unless the Chief Inspector or the owner, agent or manager of the mine has lodged an objection to the decision of the Committee, in which case the Local Government may proceed to review such decision and to pass such orders in the matter as it may think fit. If an objection is lodged by the Chief Inspector, notice of the same shall forthwith be given to the owner, agent or manager of the mine.

(6) The Local Government may give directions as to the remuneration, if any, to be paid to the members of the Committee or any of them, and as to the payment of the expenses of the inquiry including such remuneration.

Powers of
Mining
Boards.

12. (1) Any Mining Board constituted under section 10 and any Committee constituted under section 11 may exercise such of the powers of an Inspector under this Act as it thinks necessary or expedient to exercise for the purpose of deciding or reporting upon any matter referred to it.

(2) Every Mining Board constituted under section 10 and every Committee appointed under section 11 shall have the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects; and every person required by any such Mining Board or Committee to furnish information before it shall be deemed to be legally bound to do so within the meaning of section 176 of the Indian Penal Code. v of 1908.

XLV of 1860.

Recovery of
expenses.

13. The Local Government may direct that the expenses of any inquiry conducted by a Mining Board

Board constituted under section 10 or by a Committee appointed under section 11 shall be borne in whole or in part by the owner or agent of the mine concerned, and the amount so directed to be paid may, on application by the Chief Inspector or an Inspector to a Magistrate having jurisdiction at the place where the mine is situated or where such owner or agent is for the time being resident, be recovered by the distress and sale of any moveable property within the limits of the Magistrate's jurisdiction belonging to such owner, agent or manager.

CHAPTER IV.

MINING OPERATIONS AND MANAGEMENT OF MINES.

14. The owner, agent or manager of a mine shall, in the case of an existing mine within one month from the commencement of this Act, or, in the case of a new mine, within three months after the commencement of mining operations, give to the District Magistrate of the district in which the mine is situated notice in writing in such form and containing such particulars relating to the mine as may be prescribed.

Notice to be given of mining operations.

15. (1) Save as may be otherwise prescribed, every mine shall be under one manager who shall have the prescribed qualifications and shall be responsible for the control, management and direction of the mine, and the owner or agent of every mine shall appoint himself or some other person, having such qualifications, to be such manager.

Managers.

(2) If any mine is worked without there being a manager for the mine as required by sub-section (1), the owner and agent shall each be deemed to have contravened the provisions of this section.

16. (1) The owner, agent and manager of every mine shall be responsible that all operations carried on in connection therewith are conducted in accordance with the provisions of this Act and of the regulations,

Duties and responsibilities of owners, agents and managers.

regulations,

regulations, rules and bye-laws and of any orders made thereunder.

(2) In the event of any contravention of any such provisions by any person whomsoever, the owner, agent and manager of the mine shall each be deemed also to be guilty of such contravention unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing those provisions, to prevent such contravention :

Provided that the owner or agent shall not be so deemed if he proves—

- (a) that he was not in the habit of taking, and did not in respect of the matter in question take, any part in the management of the mine; and
- (b) that he had made all the financial and other provisions necessary to enable the manager to carry out his duties; and
- (c) that the offence was committed without his knowledge, consent or connivance.

(3) Save as hereinbefore provided, it shall not be a defence in any proceedings brought against an owner or agent of a mine under this section that a manager of the mine has been appointed in accordance with the provisions of this Act.

CHAPTER V.

PROVISIONS AS TO HEALTH AND SAFETY.

Conservancy. 17. There shall be provided and maintained for every mine latrine and urinal accommodation of such kind and on such scale, and such supply of water fit for drinking, as may be prescribed.

Medical appliances. 18. At every mine in respect of which the Local Government may, by notification in the local official Gazette, declare this section to apply, such supply of ambulances or stretchers, and of splints, bandages and other medical requirements, as may be prescribed,

prescribed, shall be kept ready at hand in a convenient place and in good and serviceable order.

19. (1) If, in any respect which is not provided against by any express provision of this Act or of the regulations, rules or bye-laws or of any orders made thereunder, it appears to the Chief Inspector or the Inspector that any mine, or any part thereof or any matter, thing or practice in or connected with the mine, or with the control, management or direction thereof, is dangerous to human life or safety, or defective so as to threaten, or tend to, the bodily injury of any person, he may give notice in writing thereof to the owner, agent or manager of the mine, and shall state in the notice the particulars in which he considers the mine, or part thereof, or the matter, thing or practice, to be dangerous or defective and required the same to be remedied within such time as he may specify in the notice.

Powers of
Inspectors
when causes
of danger not
expressly
provided
against exist
or when em-
ployment of
persons is
dangerous.

(2) If the Chief Inspector or an Inspector authorised in this behalf by general or special order in writing by the Chief Inspector is of opinion that there is urgent and immediate danger to the life or safety of any person employed in any mine or part thereof, he may, by an order in writing containing a statement of the grounds of his opinion, prohibit, until the danger is removed, the employment in or about the mine or part thereof of any person whose employment is not in his opinion reasonably necessary for the purpose of removing the danger.

(3) Where an order has been made under sub-section (2) by an Inspector, the owner, agent or manager of the mine may, within ten days after the receipt of the order, appeal against the same to the Chief Inspector who may confirm, modify or cancel the order.

(4) The Chief Inspector or the Inspector making a requisition under sub-section (1) or an order under sub-section (2), and the Chief Inspector making an order (other than an order of cancellation) in appeal under sub-section (3), shall forthwith report the same to the Local Government and shall inform the

owner,

owner, agent or manager of the mine that such report has been so made.

(5) If the owner, agent or manager of the mine objects to a requisition made under sub-section (1) or to an order made by the Chief Inspector under sub-section (2), or sub-section (3), he may, within twenty days after the receipt of the notice containing the requisition or of the order or after the date of the decision of the appeal, as the case may be, send his objection in writing, stating the grounds thereof, to the Local Government, which shall refer the same to a Committee.

(6) Every requisition made under sub-section (1), or order made under sub-section (2), or sub-section (3) to which objection is made under sub-section (5), shall be complied with pending the receipt at the mine of the decision of the Committee:

Provided that the Committee may, on the application of the owner, agent or manager, suspend the operation of a requisition under sub-section (1) pending its decision on the objection.

(7) Nothing in this section shall affect the powers of a Magistrate under section 144 of the Code of Criminal Procedure, 1898.

V of 1898.

Notice to be given of accidents.

20. When any accident occurs in or about a mine causing loss of life or serious bodily injury, or when an accidental explosion, ignition, outbreak of fire or irruption of water occurs in or about a mine, the owner, agent or manager of the mine shall give such notice of the occurrence to such authorities, and in such form, and within such time, as may be prescribed.

Power of Government to appoint court of inquiry in cases of accidents.

21. (1) When any accidental explosion, ignition, outbreak of fire or irruption of water or other accident has occurred in or about any mine, the Local Government, if it is of opinion that a formal inquiry into the causes of, and circumstances attending, the accident ought to be held, may appoint a competent person to hold such inquiry, and may also appoint any person or persons possessing legal or special knowledge

knowledge to act as assessor or assessors in holding the inquiry.

V of 1908. (2) The person appointed to hold any such inquiry shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects; and every person required by such person as aforesaid to furnish any information shall be deemed to be legally bound to do so within the meaning of XLV of 1860. section 176 of the Indian Penal Code.

(3) Any person holding an inquiry under this section may exercise such of the powers of an Inspector under this Act as he may think it necessary or expedient to exercise for the purposes of the inquiry.

(4) The person holding an inquiry under this section shall make a report to the Local Government stating the causes of the accident and its circumstances, and adding any observations which he or any of the assessors may think fit to make.

22. The Local Government may cause any report submitted by a Committee under section 11 or by a court of inquiry under section 21 to be published at such time and in such manner as it may think fit. Publication of reports.

CHAPTER VI.

HOURS AND LIMITATION OF EMPLOYMENT.

23. No person shall be employed in a mine— Hours of employment.
- (a) on more than six days in any one week,
 - (b) if he works above ground, for more than sixty hours in any one week,
 - (c) if he works below ground, for more than fifty-four hours in any one week.

24. Nothing in section 23 shall apply to persons who may by rules be defined to be persons holding positions of supervision or management or employed in a confidential capacity. Supervising staff.

25. In

Exemption
from provi-
sions regard-
ing employ-
ment.

25. In case of an emergency involving serious risk to the safety of the mine or of persons employed therein, the manager may, subject to the provisions of section 19, permit persons to be employed in contravention of section 23 on such work as may be necessary to protect the safety of the mine or of the persons employed therein :

Provided that, where such occasion arises, a record of the fact shall immediately be made by the manager and shall be placed before the Chief Inspector or the Inspector at his next inspection of the mine.

Children.

26. No child shall be employed in a mine, or be allowed to be present in any part of a mine which is below ground.

Disputes as
to age.

27. (1) If any question arises between the Chief Inspector or the Inspector and the manager of any mine as to whether any person is a child, the question shall, in the absence of a certificate as to the age of such person granted in the prescribed manner, be referred by the Chief Inspector or the Inspector for decision to a qualified medical practitioner.

(2) Every certificate as to the age of a person which has been granted in the prescribed manner and any certificate granted by a qualified medical practitioner on a reference under sub-section (1) shall, for the purposes of this Act, be conclusive evidence as to the age of the person to whom it relates.

Register of
employees.

28. For every mine there shall be kept in the prescribed form and place a register of all persons employed in the mine, of their hours of work, of their days of rest, and of the nature of their respective employments.

CHAPTER VII.

REGULATIONS, RULES AND BYE-LAWS.

Power of
Governor
General in

29. The Governor General in Council may, by notification in the Gazette of India, make regulations

regulations consistent with this Act for all or any of the following purposes, namely:—

Council to
make regula-
tions.

- (a) for prescribing the qualifications to be required by a person for appointment as Chief Inspector or Inspector;
- (b) for prescribing and regulating the duties and powers of the Chief Inspector and of Inspectors in regard to the inspection of mines under this Act;
- (c) for prescribing the duties of owners, agents and managers of mines and of persons acting under them;
- (d) for prescribing the qualifications of managers of mines and of persons acting under them;
- (e) for regulating the manner of ascertaining, by examination or otherwise, the qualifications of managers of mines and persons acting under them, and the granting and renewal of certificates of competency;
- (f) for fixing the fees, if any, to be paid in respect of such examinations and of the grant and renewal of such certificates;
- (g) for determining the circumstances in which and the conditions subject to which it shall be lawful for more mines than one to be under a single manager, or for any mine or mines to be under a manager not having the prescribed qualifications;
- (h) for providing for the making of inquiries into charges of misconduct or incompetency on the part of managers of mines and persons acting under them and for the suspension and cancellation of certificates of competency;
- (i) for regulating, subject to the provisions of the Indian Explosives Act, 1884, and of any rules made thereunder, the storage and use of explosives;

(j) for

- (j) for prohibiting, restricting or regulating the employment in mines or in any class of mines of women either below ground or on particular kinds of labour which are attended by danger to the life, safety or health of such women;
- (k) for providing for the safety of the persons employed in a mine, their means of entrance thereinto and exit therefrom, the number of shafts or outlets to be furnished, and the fencing of shafts, pits, outlets, pathways and subsidences;
- (l) for providing for the safety of the roads and working places in mines, including the siting and maintenance of pillars and the maintenance of sufficient barriers between mine and mine;
- (m) for providing for the ventilation of mines and the action to be taken in respect of dust and noxious gases;
- (n) for providing for the care, and the regulation of the use, of all machinery and plant and of all electrical apparatus used for signalling purposes;
- (o) for requiring and regulating the use of safety lamps in mines;
- (p) for providing against dangers arising out of the accumulation of water in mines;
- (q) for prescribing the notices of accidents and dangerous occurrences, and the notices, reports and returns of mineral output, persons employed and other matters provided for by regulations, to be furnished by owners, agents and managers of mines, and for prescribing the forms of such notices, returns and reports, the persons and authorities to whom they are to be furnished, the particulars to be contained in them, and the time within which they are to be submitted;
- (r) for

- (r) for prescribing the plans to be kept by owners, agents and managers of mines and the manner and places in which such plans are to be kept for purposes of record;
- (s) for regulating the procedure on the occurrence of accidents or accidental explosions or ignitions in or about mines;
- (t) for prescribing the form of, and the particulars to be contained in, the notice to be given by the owner, agent or manager of a mine under section 14; and
- (u) for prescribing the notice to be given by the owner, agent or manager of a mine before mining operations are commenced at or extended to any point within fifty yards of any railway subject to the provisions of the Indian Railways Act, 1890, or of any public work or classes of public works which the Local Government may, by general or special order, specify in this behalf.

IX of 1890

30. The Local Government may, subject to the Power of Local Governments to make rules. control of the Governor General in Council, by notification in the local official Gazette, make rules consistent with this Act for all or any of the following purposes, namely :—

- (a) for providing for the appointment of chairmen and members of Mining Boards, and for regulating the procedure of such Boards;
- (b) for providing for the appointment of courts of inquiry under section 21, for regulating the procedure and powers of such courts, for the payment of travelling allowance to the members, and for the recovery of the expenses of such courts from the manager, owner or agent of the mine concerned;
- (c) for prescribing the scale of latrine and urinal accommodation to be provided at
mines,

mines, the provision to be made for the supply of drinking-water, the supply and maintenance of medical appliances and comforts, the formation and training of rescue brigades, and the training of men in ambulance work;

- (d) for defining the persons who shall, for the purposes of section 24, be deemed to be persons holding positions of supervision or management or employed in a confidential capacity;
- (e) for prohibiting the employment in mines of persons or any class of persons who have not been certified by a qualified medical practitioner to be more than thirteen years of age, and for prescribing the manner and the circumstances in which such certificates may be granted and revoked;
- (f) for prescribing the form of register required by section 28;
- (g) for prescribing abstracts of this Act and the vernacular in which the abstracts and the regulations, rules and bye-laws shall be posted as required by sections 32 and 33;
- (h) for requiring the fencing of any mine or part of a mine, whether the same is being worked or not, where such fencing is necessary for the protection of the public;
- (i) for the protection from injury, in respect of any mine when the workings are discontinued, of property vested in His Majesty or any local authority or railway company as defined in the Indian Railways Act, 1890;
- (j) for requiring notices, returns and reports in connection with any matters dealt with by rules to be furnished by owners, agents and managers of mines, and for prescribing

IX of 1890.

prescribing the forms of such notices, returns and reports, the persons and authorities to whom they are to be furnished, the particulars to be contained in them, and the times within which they are to be submitted; and

- (k) generally to provide for any matter not provided for by this Act or the regulations, provision for which is required in order to give effect to this Act.

31. (1) The power to make regulations and rules ^{Prior publica-} conferred by sections 29 and 30 is subject to the ^{tion of regula-} condition of the regulations and rules being made ^{tions and} after previous publication. ^{rules.}

(2) The date to be specified in accordance with clause (3) of section 23 of the General Clauses Act, 1897, as that after which a draft of regulations or rules proposed to be made will be taken under consideration, shall not be less than three months from the date on which the draft of the proposed regulations or rules is published for general information.

(3) Before the draft of any regulation or rule is published under this section it shall be referred in the case of a regulation to every Mining Board constituted in British India, and in the case of a rule to every Mining Board constituted in the province; and the regulation or rule shall not be so published until each such Board has had a reasonable opportunity of reporting as to the expediency of making the same and as to the suitability of its provisions.

(4) Regulations and rules shall be published in the Gazette of India and the local official Gazette, respectively, and, on such publication, shall have effect as if enacted in this Act.

32. (1) The owner, agent or manager of a mine ^{Bye-laws.} may, and shall, if called upon to do so by the Chief Inspector or Inspector, frame and submit to the Chief Inspector or Inspector a draft of such bye-laws, not being inconsistent with this Act or any regulations or rules for the time being in force, for

the

the control and guidance of the persons acting in the management of, or employed in, the mine as such owner, agent or manager may deem necessary to prevent accidents and provide for the safety, convenience and discipline of the persons employed in the mine.

(2) If any such owner, agent or manager—

- (a) fails to submit within two months a draft of bye-laws after being called upon to do so by the Chief Inspector or Inspector, or
- (b) submits a draft of bye-laws which is not in the opinion of the Chief Inspector or Inspector sufficient,

the Chief Inspector or Inspector may—

- (i) propose a draft of such bye-laws as appear to him to be sufficient, or
- (ii) propose such amendments in any draft submitted to him by the owner, agent or manager as will, in his opinion, render it sufficient,

and shall send such draft bye-laws or draft amendments to the owner, agent or manager, as the case may be, for consideration.

(3) If within a period of two months from the date on which any draft bye-laws or draft amendments are sent by the Chief Inspector or Inspector to the owner, agent or manager under the provisions of sub-section (2), the Chief Inspector or Inspector and the owner, agent or manager are unable to agree as to the terms of the bye-laws to be made under sub-section (1), the Chief Inspector or Inspector shall refer the draft bye-laws for settlement to the Mining Board or, where there is no Mining Board, to such officer or authority as the Local Government may, by general or special order, appoint in this behalf.

(4) (a) When such draft bye-laws have been agreed to by the owner, agent or manager and the Chief Inspector or Inspector, or, when they are unable to agree, have been settled by the Mining Board or such officer or authority as aforesaid, a copy of the draft
bye-laws

bye-laws shall be sent by the Chief Inspector or Inspector to the Local Government for approval.

(b) The Local Government may make such modifications of the draft bye-laws as it thinks fit.

(c) Before the Local Government approves the draft bye-laws, whether with or without modifications, there shall be published, in such manner as the Local Government may think best adapted for informing the persons affected, notice of the proposal to make the bye-laws and of the place where copies of the draft bye-laws may be obtained, and of the time (which shall not be less than thirty days) within which any objections with reference to the draft bye-laws, made by or on behalf of persons affected, should be sent to the Local Government.

(d) Every objection shall be in writing and shall state—

- (i) the specific grounds of objection and
- (ii) the omissions, additions or modifications asked for.

(e) The Local Government shall consider any objection made within the required time by or on behalf of persons appearing to it to be affected, and may approve the bye-laws either in the form in which they were published or after making such amendments thereto as it thinks fit.

(5) The bye-laws, when so approved by the Local Government, shall have effect as if enacted in this Act, and the owner, agent or manager of the mine shall cause a copy of the bye-laws, in English and in such vernacular or vernaculars as may be prescribed, to be posted up in some conspicuous place at or near the mine, where the bye-laws may be conveniently read or seen by the persons employed; and, as often as the same become defaced, obliterated or destroyed, shall cause them to be renewed with all reasonable despatch.

(6) The Local Government may, by order in writing, rescind, in whole or in part, any bye-law so
made,

made, and thereupon such bye-law shall cease to have effect accordingly.

Posting up
of extracts
from Act, re-
gulations, etc.

33. There shall be kept posted up at or near every mine in English and in such vernacular or vernaculars as may be prescribed, the prescribed abstracts of the Act and of the regulations and rules.

CHAPTER VIII.

PENALTIES AND PROCEDURE.

Obstruction.

34. (1) Whoever obstructs the Chief Inspector, an Inspector or any person authorised under section 7 in the discharge of his duties under this Act, or refuses or wilfully neglects to afford the Chief Inspector, an Inspector or such person any reasonable facility for making any entry, inspection, examination or inquiry authorised by or under this Act in relation to any mine, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(2) Whoever refuses to produce on the demand of the Chief Inspector or Inspector any registers or other documents kept in pursuance of this Act, or prevents or attempts to prevent or does anything which he has reason to believe to be likely to prevent, any person from appearing before or being examined by an inspecting officer acting in pursuance of his duties under this Act, shall be punishable with fine which may extend to three hundred rupees.

Falsification
of records,
etc.

35. Whoever—

(a) counterfeits, or knowingly makes a false statement in, any certificate, or any official copy of a certificate, granted under this Act, or

(b) knowingly uses as true any such counterfeit or false certificate, or

(c) makes

- (c) makes or produces or uses any false declaration, statement or evidence knowing the same to be false, for the purpose of obtaining for himself or for any other person a certificate, or the renewal of a certificate, under this Act, or any employment in a mine, or
- (d) falsifies any plan or register or record the maintenance of which is required by or under this Act, or
- (e) makes, gives or delivers any plan, return, notice, record or report containing a statement, entry or detail which is not to the best of his knowledge or belief true,

shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

36. Any person who, without reasonable excuse the burden of proving which shall lie upon him, omits to make or furnish in the prescribed form or manner or at or within the prescribed time any plan, return, notice, register, record or report required by or under this Act to be made or furnished shall be punishable with fine which may extend to two hundred rupees.

Omission to furnish plans, etc.

37. Whoever, save as permitted by section 25, contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder prohibiting, restricting or regulating the employment or presence of persons in or about a mine shall be punishable with fine which may extend to five hundred rupees.

Contravention of provisions regarding employment of labour.

38. Whoever, in contravention of the provisions of section 20, fails to give notice of any accidental occurrence shall, if the occurrence results in serious bodily injury, be punishable with fine which may extend to five hundred rupees, or, if the occurrence results in loss of life, be punishable with imprisonment which may extend to three months or with fine

Notice of accidents.

which

which may extend to five hundred rupees, or with both.

Disobedience
of orders.

39. Whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder for the contravention of which no penalty is hereinbefore provided shall be punishable with fine which may extend to one thousand rupees, and, in the case of a continuing contravention, with a further fine which may extend to one hundred rupees for every day on which the offender is proved to have persisted in the contravention after the date of the first conviction.

Contraven-
tion of law
with danger-
ous results.

40. (1) Notwithstanding anything hereinbefore contained, whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder, shall be punishable, if such contravention results in loss of life, with imprisonment which may extend to one year, or with fine which may extend to two thousand rupees, or with both; or, if such contravention results in serious bodily injury, with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both; or, if such contravention otherwise causes injury or danger to workers or other persons in or about the mine, with imprisonment which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

(2) Where a person having been convicted under this section is again convicted thereunder, he shall be punishable with double the punishment provided by sub-section (1).

(3) Any Court imposing, or confirming in appeal, revision or otherwise, a sentence of fine passed under this section may, when passing judgment, order the whole or any part of the fine recovered to be paid as compensation to the person injured, or, in the case of his death, to his legal representative :

Provided that, if the fine is imposed in a case which is subject to appeal, no such payment shall

be

be made before the period allowed for presenting the appeal has elapsed, or, if an appeal has been presented, before the decision of the appeal.

41. No prosecution shall be instituted against any owner, agent or manager for any offence under this Act except at the instance of the Chief Inspector or of the District Magistrate or of an Inspector authorised in this behalf by general or special order in writing by the Chief Inspector. Prosecution of owner, agent or manager.

42. No Court shall take cognizance of any offence under this Act unless complaint thereof has been made within six months of the date on which the offence is alleged to have been committed. Limitation of prosecutions.

43. No Court inferior to that of a Presidency Magistrate or Magistrate of the first class shall try any offence under this Act which is alleged to have been committed by any owner, agent or manager of a mine or any offence which is by this Act made punishable with imprisonment. Cognizance of offences.

44. (1) If the Court trying any case instituted at the instance of the Chief Inspector or of the District Magistrate or of an Inspector under this Act is of opinion that the case is one which should, in lieu of a prosecution, be referred to a Mining Board or a Committee, it may stay the criminal proceedings, and report the matter to the Local Government with a view to such reference being made. Reference to Mining Board or Committee in lieu of prosecution in certain cases.

(2) On receipt of a report under sub-section (1), the Local Government may refer the case to a Mining Board or a Committee, or may direct the Court to proceed with the trial.

CHAPTER IX.

MISCELLANEOUS.

45. If any question arises as to whether any excavation or working is a mine within the meaning of this Act, the Local Government may decide the question, Decision of question whether a mine is under this Act.

question, and a certificate signed by a Secretary to the Local Government shall be conclusive on the point.

Power to
exempt from
operation of
Act.

46. (1) The Governor General in Council may, by notification in the Gazette of India, exempt any local area or any mine or group or class of mines or any part of a mine or any class of persons from the operation of all or any specified provisions of this Act :

Provided that no local area or mine or group or class of mines shall be exempted from the provisions of section 26 unless it is also exempted from the operation of all the other provisions of this Act.

(2) On the occurrence of any public emergency, the Local Government may, by an order in writing, confer any exemption which might be conferred by the Governor General in Council under sub-section (1). When such an order is made, a copy thereof shall forthwith be sent to the Governor General in Council.

Power to
alter or
rescind
orders.

47. The Governor General in Council and every Local Government may reverse or modify any order passed under this Act by any authority subject to his or its control, as the case may be.

Application
of Act to
Crown mines

48. This Act shall apply to mines belonging to the Crown.

Saving.

49. No suit, prosecution or other legal proceeding whatever shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Repeals.

50. On and from the commencement of this Act, the enactments mentioned in the Schedule shall be repealed to the extent specified in the fourth column thereof.

THE SCHEDULE.

(See section 50.)

ENACTMENTS REPEALED.

Year.	No.	Short title.	Extent of repeal.
1901	VIII	The Indian Mines Act, 1901.	The whole.
1914	IV	The Decentralisation Act, 1914.	So much of the Schedule as relates to the Indian Mines Act, 1901.
„	X	The Repealing and Amending Act, 1914.	So much of the Second Schedule as relates to the Indian Mines Act, 1901.

CALCUTTA
SUPERINTENDENT GOVERNMENT PRINTING, INDIA
8, HASTINGS STREET

ACT No. V OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 23rd February, 1923.)

An Act to consolidate and amend the law relating to steam-boilers.

WHEREAS it is expedient to consolidate and amend the law relating to steam-boilers; It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Boilers Act, 1923. Short title, extent and commencement.

(2) It extends to the whole of British India, including British Baluchistan and the Santhal Parganas.

(3) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(a) “ accident ” means an explosion of a boiler or steam-pipe or any damage to a boiler or steam-pipe which is calculated to weaken the strength thereof so as to render it liable to explode;

(b) “ boiler ” means any closed vessel exceeding five gallons in capacity which is used expressly for generating steam under pressure for use outside such vessel, and includes any mounting or other fitting attached to such vessel which is wholly or partly under pressure when steam is shut off;

(c) “ Chief Inspector ” and “ Inspector ” mean, respectively, a person appointed to

to be a Chief Inspector and an Inspector under this Act;

- (d) “ owner ” includes any person using a boiler as agent of the owner thereof and any person using a boiler which he has hired or obtained on loan from the owner thereof;
- (e) “ prescribed ” means prescribed by regulations or rules made under this Act;
- (f) “ steam-pipe ” means any main pipe exceeding three inches in internal diameter through which steam passes directly from a boiler to a prime-mover or other first user, and includes any connected fitting of a steam-pipe; and
- (g) “ structural alteration, addition or renewal ” shall not be deemed to include any renewal or replacement of a petty nature when the part or fitting used for replacement is not inferior in strength, efficiency or otherwise to the replaced part or fitting.

Limitation of application.

3. (1) Nothing in this Act shall apply in the case of any boiler or steam-pipe—

- (a) in any steam-ship as defined in section 3 of the Indian Steam-ships Act, 1884, or in ^{VII of 1884.} any steam-vessel as defined in section 2 of the Inland Steam-vessels Act, 1917; ^{I of 1917.} or
- (b) belonging to or under the control of His Majesty's Navy or the Royal Indian Marine Service.

(2) The Governor General in Council may, by notification in the Gazette of India, declare that the provisions of this Act shall not apply in the case of boilers or steam-pipes, or of any specified class of boilers or steam-pipes, belonging to or under the control of any railway administered by the Government or by any railway company as defined

IX of 1890.

defined in clause (5) of section 3 of the Indian Railways Act, 1890.

4. The Governor General in Council may, by notification in the Gazette of India, exclude any specified area from the operation of all or any specified provisions of this Act. Power to limit extent.

5. (1) The Local Government may appoint such persons as it thinks fit to be Inspectors for the province for the purposes of this Act, and may define the local limits within which each Inspector shall exercise the powers and perform the duties conferred and imposed on Inspectors by or under this Act. Appointment of Chief Inspectors and Inspectors.

(2) The Local Government shall likewise appoint a person to be Chief Inspector for the province, who may, in addition to the powers and duties conferred or imposed on the Chief Inspector by or under this Act, exercise any power or perform any duty so conferred or imposed on Inspectors.

(3) Every Chief Inspector and every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code. XLV of 1860.

6. Save as otherwise expressly provided in this Act, no owner of a boiler shall use the boiler or permit it to be used— Prohibition of use of unregistered or uncertificated boiler.

- (a) unless it has been registered in accordance with the provisions of this Act;
- (b) in the case of any boiler which has been transferred from one province to another, until the transfer has been reported in the prescribed manner;
- (c) unless a certificate or provisional order authorising the use of the boiler is for the time being in force under this Act;
- (d) at a pressure higher than the maximum pressure recorded in such certificate or provisional order;
- (e) where the Local Government has made rules requiring that boilers shall be in charge of persons holding certificates of competency, unless the boiler is in

in charge of a person holding the certificate required by such rules :

Provided that any boiler registered, or any boiler certified or licensed, under any Act hereby repealed shall be deemed to have been registered or certified, as the case may be, under this Act :

Provided, further, that, until the expiration of twelve months from the commencement of this Act, nothing in this section shall be deemed to prohibit the use of any boiler in any local area in which the registration of, or a certificate or licence for the use of, a boiler was not previously required by law.

Registration:

7. (1) The owner of any boiler which is not registered under the provisions of this Act may apply to the Inspector to have the boiler registered. Every such application shall be accompanied by the prescribed fee.

(2) On receipt of an application under subsection (1), the Inspector shall fix a date, within thirty days or such shorter period as may be prescribed from the date of the receipt, for the examination of the boiler and shall give the owner thereof not less than ten days' notice of the date so fixed.

(3) On the said date the Inspector shall proceed to measure and examine the boiler and to determine in the prescribed manner the maximum pressure, if any, at which such boiler may be used, and shall report the result of the examination to the Chief Inspector in the prescribed form.

(4) The Chief Inspector, on receipt of the report, may—

(a) register the boiler and assign a register number thereto either forthwith or after satisfying himself that any structural alteration, addition or renewal which he may deem necessary has been made in or to the boiler or any steam-pipe attached thereto, or

(b) refuse to register the boiler :

Provided

Provided that where the Chief Inspector refuses to register a boiler, he shall forthwith communicate his refusal to the owner of the boiler together with the reasons therefor.

(5) The Chief Inspector shall, on registering the boiler, order the issue to the owner of a certificate in the prescribed form authorising the use of the boiler for a period not exceeding twelve months at a pressure not exceeding such maximum pressure as he thinks fit and as is in accordance with the regulations made under this Act.

(6) The Inspector shall forthwith convey to the owner of the boiler the orders of the Chief Inspector and shall in accordance therewith issue to the owner any certificate of which the issue has been ordered, and, where the boiler has been registered, the owner shall within the prescribed period cause the register number to be permanently marked thereon in the prescribed manner.

8. (1) A certificate authorising the use of a boiler shall cease to be in force— Renewal of
certificate.

- (a) on the expiry of the period for which it was granted; or
- (b) when any accident occurs to the boiler; or
- (c) when the boiler is moved, the boiler not being a vertical boiler the heating surface of which is less than two hundred square feet, or a portable or vehicular boiler; or
- (d) when any structural alteration, addition or renewal is made in or to the boiler; or
- (e) if the Chief Inspector in any particular case so directs, when any structural alteration, addition or renewal is made in or to any steam-pipe attached to the boiler; or
- (f) on the communication to the owner of the boiler of an order of the Chief Inspector or Inspector prohibiting its use

use on the ground that it or any steam-pipe attached thereto is in a dangerous condition.

(2) Where an order is made under clause (f) of sub-section (1), the grounds on which the order is made shall be communicated to the owner with the order.

(3) When a certificate ceases to be in force, the owner of the boiler may apply to the Inspector for a renewal thereof for such period not exceeding twelve months as he may specify in the application.

(4) An application under sub-section (3) shall be accompanied by the prescribed fee and, on receipt thereof, the Inspector shall fix a date, within thirty days or such shorter period as may be prescribed from the date of the receipt, for the examination of the boiler and shall give the owner thereof not less than ten days' notice of the date so fixed :

Provided that, where the certificate has ceased to be in force owing to the making of any structural alteration, addition or renewal, the Chief Inspector may dispense with the payment of any fee.

(5) On the said date the Inspector shall examine the boiler in the prescribed manner, and if he is satisfied that the boiler and the steam-pipe or steam-pipes attached thereto are in good condition shall issue a renewed certificate authorising the use of the boiler for such period not exceeding twelve months and at a pressure not exceeding such maximum pressure as he thinks fit and as is in accordance with the regulations made under this Act :

Provided that if the Inspector—

(a) proposes to issue any certificate—

(i) having validity for a less period than the period entered in the application, or

(ii) increasing

(ii) increasing or reducing the maximum pressure at which the boiler may be used, or

(b) proposes to order any structural alteration, addition or renewal to be made in or to the boiler or any steam-pipe attached thereto, or

(c) is of opinion that the boiler is not fit for use, the Inspector shall, within forty-eight hours of making the examination, inform the owner of the boiler in writing of his opinion and the reasons therefor, and shall forthwith report the case for orders to the Chief Inspector.

(6) The Chief Inspector, on receipt of a report under sub-section (5), may, subject to the provisions of this Act and of the regulations made hereunder, order the renewal of the certificate in such terms and on such conditions, if any, as he thinks fit, or may refuse to renew it :

Provided that where the Chief Inspector refuses to renew a certificate, he shall forthwith communicate his refusal to the owner of the boiler, together with the reasons therefor.

(7) Nothing in this section shall be deemed to prevent an owner of a boiler from applying for a renewed certificate therefor at any time during the currency of a certificate.

9. Where the Inspector reports the case of any boiler to the Chief Inspector under sub-section (3) of section 7 or sub-section (5) of section 8, he may, if the boiler is not a boiler the use of which has been prohibited under clause (f) of sub-section (1) of section 8, grant to the owner thereof a provisional order in writing permitting the boiler to be used at a pressure not exceeding such maximum pressure as he thinks fit and as is in accordance with the regulations made under this Act pending the receipt of the orders of the Chief Inspector. Such provisional order shall cease to be in force—

(a) on the expiry of six months from the date on which it is granted, or

(b) on

- (b) on receipt of the orders of the Chief Inspector, or
- (c) in any of the cases referred to in clauses (b), (c), (d), (e) and (f) of sub-section (1) of section 8,

and on so ceasing to be in force shall be surrendered to the Inspector.

Use of boiler pending grant of certificate.

10. (1) Notwithstanding anything hereinbefore contained, when the period of a certificate relating to a boiler has expired, the owner shall, provided that he has applied before the expiry of that period for a renewal of the certificate, be entitled to use the boiler at the maximum pressure entered in the former certificate pending the issue of orders on the application.

(2) Nothing in sub-section (1) shall be deemed to authorise the use of a boiler in any of the cases referred to in clauses (b), (c), (d), (e) and (f) of sub-section (1) of section 8 occurring after the expiry of the period of the certificate.

Revocation of certificate or provisional order.

11. The Chief Inspector may at any time withdraw or revoke any certificate or provisional order on the report of an Inspector or otherwise—

- (a) if there is reason to believe that the certificate or provisional order has been fraudulently obtained or has been granted erroneously or without sufficient examination; or
- (b) if the boiler in respect of which it has been granted has sustained injury or has ceased to be in good condition; or
- (c) where the Local Government has made rules requiring that boilers shall be in charge of persons holding certificates of competency, if the boiler is in charge of a person not holding the certificate required by such rules; or
- (d) where no such rules have been made, if the boiler is in charge of a person who is not, having regard to the condition of the boiler,

boiler, in the opinion of the Chief Inspector competent to have charge thereof :

Provided that where the Chief Inspector withdraws or revokes a certificate or provisional order on the ground specified in clause (d), he shall communicate to the owner of the boiler his reasons in writing for the withdrawal or revocation, and the order shall not take effect until the expiry of thirty days from the receipt of such communication.

12. No structural alteration, addition or renewal shall be made in or to any boiler registered under this Act unless such alteration, addition or renewal has been sanctioned in writing by the Chief Inspector.

Alterations
and renewals
to boilers.

13. Before the owner of any boiler registered under this Act makes any structural alteration, addition or renewal in or to any steam-pipe attached to the boiler, he shall transmit to the Chief Inspector a report in writing of his intention, and shall send therewith such particulars of the proposed alteration, addition or renewal as may be prescribed.

Alterations
and renewals
to steam-
pipes.

14. (1) On any date fixed under this Act for the examination of a boiler, the owner thereof shall be bound—

Duty of owner
at examina-
tion.

- (a) to afford to the Inspector all reasonable facilities for the examination and all such information as may reasonably be required of him;
- (b) to have the boiler properly prepared and ready for examination in the prescribed manner; and
- (c) in the case of an application for the registration of a boiler, to provide such drawings, specifications, certificates and other particulars as may be prescribed.

(2) If the owner fails, without reasonable cause, to comply with the provisions of sub-section (1), the Inspector shall refuse to make the examination and shall report the case to the Chief Inspector who shall, unless sufficient cause to the contrary is shown, require

require the owner to file a fresh application under section 7 or section 8, as the case may be, and may forbid him to use the boiler notwithstanding anything contained in section 10.

Production of
certificates,
etc.

15. The owner of any boiler who holds a certificate or provisional order relating thereto shall, at all reasonable times during the period for which the certificate or order is in force, be bound to produce the same when called upon to do so by a District Magistrate, Commissioner of Police or Magistrate of the first class having jurisdiction in the area in which the boiler is for the time being, or by the Chief Inspector or by an Inspector or by any Inspector appointed under the Indian Factories Act, 1911, or XII of 1911. by any person specially authorised in writing by a District Magistrate or Commissioner of Police.

Transfer of
certificates,
etc.

16. If any person becomes the owner of a boiler during the period for which a certificate or provisional order relating thereto is in force, the preceding owner shall be bound to make over to him the certificate or provisional order.

Powers of
entry.

17. An Inspector may, for the purpose of inspecting or examining a boiler or any steam-pipe attached thereto or of seeing that any provision of this Act or of any regulation or rule made hereunder has been or is being observed, at all reasonable times enter any place or building within the limits of the area for which he has been appointed in which he has reason to believe that a boiler is in use.

Report of
accidents.

18. (1) If any accident occurs to a boiler or steam-pipe, the owner or person in charge thereof shall, within twenty-four hours of the accident, report the same in writing to the Inspector. Every such report shall contain a true description of the nature of the accident and of the injury, if any, caused thereby to the boiler or to the steam-pipe or to any person, and shall be in sufficient detail to enable the Inspector to judge of the gravity of the accident.

(2) Every person shall be bound to answer truly to the best of his knowledge and ability every question

tion put to him in writing by the Inspector as to the cause, nature or extent of the accident.

19. Any person considering himself aggrieved by— Appeals to
Chief
Inspector.

- (a) an order made or purporting to be made by an Inspector in the exercise of any power conferred by or under this Act, or
- (b) a refusal of an Inspector to make any order or to issue any certificate which he is required or enabled by or under this Act to make or issue,

may, within thirty days from the date on which such order or refusal is communicated to him, appeal against the order or refusal to the Chief Inspector.

20. Any person considering himself aggrieved by an original or appellate order of the Chief Inspector— Appeals to
appellate
authority.

- (a) refusing to register a boiler or to grant or renew a certificate in respect of a boiler;
or
- (b) refusing to grant a certificate having validity for the full period applied for; or
- (c) refusing to grant a certificate authorising the use of a boiler at the maximum pressure desired; or
- (d) withdrawing or revoking a certificate or provisional order; or
- (e) reducing the amount of pressure specified in any certificate or the period for which such certificate has been granted; or
- (f) ordering any structural alteration, addition or renewal to be made in or to a boiler or steam-pipe, or refusing sanction to the making of any structural alteration, addition or renewal in or to a boiler,

may, within thirty days of the communication to him of such order, lodge with the Chief Inspector an appeal to an appellate authority to be constituted by the Local Government under this Act.

Finality of orders.

21. An order of an appellate authority under section 20 and, save as otherwise provided in sections 19 and 20, an order of the Chief Inspector or of an Inspector shall be final and shall not be called in question in any Court.

Minor penalties.

22. Any owner of a boiler who refuses or without reasonable excuse neglects—

- (i) to surrender a provisional order as required by section 9, or
- (ii) to produce a certificate or provisional order when duly called upon to do so under section 15, or
- (iii) to make over to the new owner of a boiler a certificate or provisional order as required by section 16,

shall be punishable with fine which may extend to one hundred rupees.

Penalties for illegal use of boiler.

23. Any owner of a boiler who, in any case in which a certificate or provisional order is required for the use of the boiler under this Act, uses the boiler either without any such certificate or order being in force or at a higher pressure than that allowed thereby, shall be punishable with fine which may extend to five hundred rupees, and, in the case of a continuing offence, with an additional fine which may extend to one hundred rupees for each day after the first day in regard to which he is convicted of having persisted in the offence.

Other penalties.

24. Any person who—

- (a) uses or permits to be used a boiler of which he is the owner and which has been transferred from one province to another without such transfer having been reported as required by section 6, or
- (b) being the owner of a boiler fails to cause the register number allotted to the boiler under this Act to be marked on the boiler as required by sub-section (6) of section 7, or

(c) makes

- (c) makes any structural alteration, addition or renewal in or to a boiler without first obtaining the sanction of the Chief Inspector when so required by section 12, or to a steam-pipe without first informing the Chief Inspector, when so required by section 13, or
- (d) fails to report an accident to a boiler or steam-pipe when so required by section 18, or
- (e) tampers with a safety valve of a boiler so as to render it inoperative at the maximum pressure at which the use of the boiler is authorised under this Act,

shall be punishable with fine which may extend to five hundred rupees.

25. (1) Whoever removes, alters, defaces, renders invisible or otherwise tampers with the register number marked on a boiler in accordance with the provisions of this Act or any Act repealed hereby, shall be punishable with fine which may extend to five hundred rupees.

Penalty for tampering with register mark.

(2) Whoever fraudulently marks upon a boiler a register number which has not been allotted to it under this Act or any Act repealed hereby, shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

26. No prosecution for an offence made punishable by or under this Act shall be instituted except within six months from the date of the commission of the offence, and no such prosecution shall be instituted without the previous sanction of the Chief Inspector.

Limitation and previous sanction for prosecutions.

27. No offence made punishable by or under this Act shall be tried by a Court inferior to that of a Presidency Magistrate or a Magistrate of the first class.

Trial of offences.

28. The Governor General in Council may, by notification in the Gazette of India, make regulations consistent

Power to make regulations.

consistent with this Act for all or any of the following purposes, namely :—

- (a) for laying down the standard conditions in respect of material, design and construction which shall be required for the purpose of enabling the registration and certification of a boiler under this Act;
- (b) for prescribing the method of determining the maximum pressure at which a boiler may be used;
- (c) for regulating the registration of boilers, prescribing the fees payable therefor, the drawings, specifications, certificates and particulars to be produced by the owner, the method of preparing a boiler for examination, the form of the Inspector's report thereon, the method of marking the register number, and the period within which such number is to be marked on the boiler;
- (d) for regulating the inspection and examination of boilers and steam-pipes, and prescribing forms of certificates therefor;
- (e) for ensuring the safety of persons working inside a boiler; and
- (f) for providing for any other matter which is not, in the opinion of the Governor General in Council, a matter of merely local or provincial importance.

Power to
make rules.

29. The Local Government may, by notification in the local official Gazette, make rules consistent with this Act and the regulations made thereunder for all or any of the following purposes, namely :—

- (a) for prescribing the qualifications and duties of the Chief Inspector and of Inspectors, for regulating their salary, allowances and conditions of service, for prescribing or constituting authorities to which they shall respectively be subordinate, and the limits of the administrative control to be exercised by such authorities;

(b) for

- (b) for regulating the transfer of boilers;
- (c) for providing for the registration and certification of boilers in accordance with the regulations made under this Act;
- (d) for requiring boilers to be in charge of persons holding certificates of competency, and for prescribing the conditions on which such certificates may be granted;
- (e) for prescribing the times within which Inspectors shall be required to examine boilers under section 7 or section 8;
- (f) for prescribing the fees payable for the issue of renewed certificates and the method of determining the amount of such fees in each case;
- (g) for regulating inquiries into accidents;
- (h) for constituting the appellate authority referred to in section 20, and for determining its powers and procedure;
- (i) for determining the mode of disposal of fees, costs and penalties levied under this Act; and
- (j) generally to provide for any matter which is, in the opinion of the Local Government, a matter of merely local importance in the province :

Provided that the previous sanction of the Governor General in Council shall be required to the making of any rule under clause (j).

30. Any regulation or rule made under section 28 or section 29 may provide that a contravention thereof shall be punishable with fine which may extend to one hundred rupees. Penalty for breach of rules.

31. (1) The power to make regulations and rules conferred by sections 28 and 29 shall be subject to the condition of the regulations and rules being made after previous publication. Publication of regulations and rules.

(2) Regulations and rules so made shall be published in the Gazette of India and the local official Gazette,

Gazette, respectively, and, on such publication, shall have effect as if enacted in this Act.

Recovery of fees, etc.

32. All fees, costs and penalties levied under this Act shall be recoverable as arrears of land-revenue.

Applicability to the Crown.

33. Save as otherwise expressly provided, this Act shall apply to boilers and steam-pipes belonging to the Crown.

Power to suspend in case of emergency.

34. In case of any emergency, the Local Government may, by general or special order in writing, exempt any boiler or steam-pipe from the operation of all or any of the provisions of this Act.

Repeal of enactments.

35. On and from the commencement of this Act, the enactments mentioned in the Schedule shall be repealed to the extent specified in the fourth column thereof :

Provided that any Chief Inspector or Inspector appointed under any Act so repealed shall be deemed to have been appointed under this Act.

THE SCHEDULE.

(See section 35.)

ENACTMENTS REPEALED.

Year.	No.	Short title.	Extent of repeal
1903	I	<i>Acts of the Governor General in Council.</i> The Amending Act, 1903 .	So much of the First Schedule as relates to the Bengal Steam-boilers and Prime-movers Act, 1879.
1920	XXXVIII	The Devolution Act, 1920 .	So much of the First Schedule as relates to the Bengal Steam-boilers and Prime-movers Act, 1879.
1893	III	<i>Madras Acts.</i> The Madras Steam-boilers and Prime-movers Act, 1893.	The whole.

THE SCHEDULE

THE SCHEDULE—*contd.*

Year.	No.	Short title.	Extent of repeal.
1904	I	The Madras Steam-boilers and Prime-movers (Amendment) Act, 1904.	The whole.
1909	VII	The Madras Steam-boilers and Prime-movers (Amendment) Act, 1909.	The whole.
		<i>Bombay Acts.</i>	
1917	V	The Bombay Boiler Inspection Act, 1917.	The whole.
1920	X	The Bombay Boiler Inspection (Amendment) Act, 1920.	The whole.
		<i>Bengal Acts.</i>	
1879	III	The Bengal Steam-boilers and Prime-movers Act, 1879.	The whole.
1915	II	The Bengal Steam-boilers and Prime-movers (Amendment) Act, 1915.	The whole.
		<i>United Provinces Act.</i>	
1915	III	The United Provinces Steam-boilers Act, 1915.	The whole.
		<i>Punjab Act.</i>	
1902	II	The Punjab Steam-boilers and Prime-movers Act, 1902.	The whole.
		<i>Central Provinces Acts.</i>	
1907	II	The Central Provinces Boiler Inspection Act, 1907.	The whole.
1919	IV	The Central Provinces Boiler Inspection (Amendment) Act, 1919.	The whole.
		<i>Burma Act.</i>	
1910	II	The Burma Steam-boilers and Prime-movers Act, 1910.	The whole.

CALCUTTA
SUPERINTENDENT GOVERNMENT PRINTING, INDIA
8, HASTINGS STREET

ACT NO. VI OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 5th March, 1923.)

An Act further to amend and to consolidate the law relating to the provision of house-accommodation for military officers in cantonments.

WHEREAS it is expedient further to amend and to consolidate the law relating to the provision of house-accommodation for military officers in cantonments; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Cantonments (House-Accommodation) Act, 1923. Short title, extent and commencement.

(2) It extends to the whole of British India (inclusive of British Baluchistan) except Aden.

(3) It shall come into force on the first day of April, 1923, but it shall not become operative in any cantonment or part of a cantonment until the issue, or otherwise than in pursuance, of a notification as hereinafter provided by section 3 :

Provided that any notification made under section 3 of the Cantonments (House-Accommodation) Act, 1902, which is in force at the commencement of this Act, shall be deemed to be a notification made under section 3 of this Act.

II of 1902.

2. (1) In this Act, unless there is anything Definitions.
repugnant in the subject or context,—

(a) “ Brigade area ” means one of the Brigade areas, whether occupied by a brigade or not,

not, into which India is for military purposes for the time being divided, and includes any area which the Governor General in Council may, by notification in the Gazette of India, declare to be a Brigade area for all or any of the purposes of this Act;

- (b) “ Cantonment Authority ” means a Cantonment Committee, or, in the case of a cantonment for which such a Committee has not been constituted or has ceased to exist or cannot be convened, the Commanding Officer of the cantonment;
- (c) “ Command ” means one of the Commands into which India is for military purposes for the time being divided, and includes any area which the Governor General in Council may, by notification in the Gazette of India, declare to be a Command for all or any of the purposes of this Act;
- (d) “ Commanding Officer of the cantonment ” means the officer for the time being in command of the forces in a cantonment;
- (e) “ District ” means one of the Districts into which India is for military purposes for the time being divided; it includes a Brigade area which does not form part of any such District and any area which the Governor General in Council may, by notification in the Gazette of India, declare to be a District for all or any of the purposes of this Act;
- (f) “ house ” means a house suitable for occupation by a military officer or a military mess, and includes the land and buildings appurtenant to a house;
- (g) “ military officer ” means a commissioned or warrant officer of His Majesty’s military or air forces on military or air-force duty in a cantonment, and includes a Chaplain

Chaplain on duty with troops in a cantonment, a Cantonment Magistrate and any person in Army departmental employment whom the Officer Commanding the District may at any time, by an order in writing, place on the same footing as a military officer for the purposes of this Act;

- (h) “ owner ” includes the person who is receiving, or is entitled to receive, the rent of a house, whether on his own account or on behalf of himself and others or as an agent or trustee, or who would so receive the rent, or be entitled to receive it, if the house were let to a tenant; and
- (i) a house is said to be in a state of reasonable repair when—
 - (i) all floors, walls, pillars and arches are sound and all roofs sound and watertight,
 - (ii) all doors and windows are intact, properly painted or oiled, and provided with proper locks or bolts or other secure fastenings, and
 - (iii) all rooms, out-houses and other appurtenant buildings are properly colour-washed or white-washed.

(2) If any question arises whether any land or building is appurtenant to a house, it shall be decided by the Commanding Officer of the cantonment, whose decision thereon shall, subject to revision by the District Magistrate, be final.

CHAPTER II.

APPLICATION OF ACT.

3. (1) The Local Government, with the previous sanction of the Governor General in Council. may, Cantonments
or parts of
cantonments
by

in which
Act to be
operative.

by notification in the local official Gazette, declare this Act to be operative in any cantonment or part of a cantonment situate in the Province, other than a cantonment situate within the limits of a presidency-town.

(2) Before issuing a notification under sub-section (1) in respect of any cantonment or part of a cantonment, the Local Government shall cause local inquiry to be made with a view to determining whether it is expedient to issue such notification, and what portion (if any) of the area proposed to be included therein should be excluded therefrom.

Saving of
written
instruments.

4. Nothing in this Act shall affect the provisions of any written instrument executed by or on behalf of the East India Company or the Government, unless the other party entitled and the Secretary of State for India in Council consent in writing to be bound by the terms of this Act.

CHAPTER III.

APPROPRIATION OF HOUSES.

Liability of
houses to ap-
propriation.

5. Every house situate in a cantonment or part of a cantonment in respect of which a notification under sub-section (1) of section 3 is for the time being in force shall be liable to appropriation by the Government on a lease in the manner and subject to the conditions hereinafter provided.

Inspection of
house requir-
ed for occupa-
tion by the
military.

6. (1) Where the Commanding Officer of the cantonment considers that the liability imposed by section 5 should be enforced in respect of any house, he shall serve a notice on the owner of the house requiring him to permit the house to be inspected, measured and surveyed by such person and on such day, not being less than three days from the service of the notice, and at such time as may be specified in the notice.

(2) On the day and at the time so specified, the owner shall be bound to afford all reasonable facilities

facilities to the person specified in the notice for the purpose of the inspection, measurement and survey of the house, and, if he refuses or neglects to do so, the said person may, subject to rules made under this Act, enter on the premises and do all such things as may be reasonably necessary for the said purpose.

7. (1) If, on the report of such person as aforesaid, the Commanding Officer of the cantonment is satisfied that the house is suitable for occupation by a military officer or a military mess, he may, with the previous sanction of the Officer Commanding the District, by notice—

Procedure
for taking
house on
lease.

- (a) require the owner to execute a lease of the house to the Government for a specified period which shall not be less than five years;
- (b) require the existing occupier, if any, to vacate the house; and
- (c) require the owner to execute within such time as may be specified in the notice such repairs as may, in the opinion of the Commanding Officer of the cantonment, be necessary for the purpose of putting the house into a state of reasonable repair.

(2) Every notice issued under sub-section (1) shall state the amount of the annual rent proposed as reasonable for the house, calculated on the assumption that the owner will carry out the required repairs, if any. It shall also contain an estimate of the cost of such repairs.

(3) The following shall be deemed to be conditions of every lease executed under sub-section (1), namely :—

- (a) that the house shall, on the expiration of the lease, be re-delivered to the owner in a state of reasonable repair, and
- (b) that the grounds and the garden, if any, appertaining to the house shall be maintained in the condition in which they are at the time at which the lease is executed.

8. The

Procedure to be observed before taking a house on lease.

8. The Officer Commanding the District shall not sanction the issue of any notice under section 7 unless he is satisfied—

(i) that the house in respect of which it is proposed to issue the notice is suitable for occupation by a military officer or a military mess, and

(ii) that there is not in the cantonment, or, if this Act is in force in a part only of the cantonment, then in that part thereof, a sufficient number of houses already available and suitable for occupation by military officers or military messes whose accommodation in the cantonment, or a part thereof, as the case may be, is in his opinion necessary or expedient.

Sanction to be obtained before a house is occupied as a hospital, etc.

9. No house in any cantonment or part of a cantonment in which this Act is operative shall, unless it was so occupied at the date of the issue of the notification declaring this Act or the Cantonments (House-Accommodation) Act, 1902, as the case may be, to be operative, be occupied for the purposes of a hospital, school, school hostel, bank, hotel, or shop, or by a railway administration, a company or firm engaged in trade or business or a club, without the previous sanction of the Officer Commanding the District given with the concurrence of the Commissioner or, in a province where there are no Commissioners, of the Collector. II of 1902.

Houses not to be appropriated in certain cases.

10. No notice shall be issued under section 7 if the house—

(a) was, at the date of the issue of the notification declaring this Act or the Cantonments (House-Accommodation) Act, 1902, as the case may be, to be operative in the cantonment or part of the cantonment, or is, with such sanction as is required by section 9, occupied as a hospital, school, school hostel, bank, hotel or shop, and has been so occupied continuously

continuously during the three years immediately preceding the time when the occasion for issuing the notice arises, or

(b) was, at the date of such a notification as is referred to in clause (a), or is, with such sanction as aforesaid, occupied by a railway administration or by a company or firm engaged in trade or business or by a club, or

(c) is occupied by the owner, or

(d) has been appropriated by the Local Government with the concurrence of the Officer Commanding the District, or by the Governor General in Council, for use as a public office or for any other purpose.

11. (1) If a house is unoccupied, a notice issued under section 7 may require the owner to give possession of the same to the Commanding Officer of the cantonment within twenty-one days from the service of the notice.

Time to be allowed for giving possession of house.

(2) If a house is occupied, a notice issued under section 7 shall not require its vacation in less than thirty days from the service of the notice.

(3) Where a notice has been issued under section 7 and the house has been vacated in pursuance thereof, the lease shall be deemed to have commenced on the date on which the house was so vacated.

12. If the owner fails to give possession of a house to the Commanding Officer of the cantonment in pursuance of a notice issued under section 7, or if the existing occupier fails to vacate a house in pursuance of such a notice, the District Magistrate, by himself or by another person generally or specially authorised by him in this behalf, shall enter on the premises and enforce the surrender of the house.

Surrender of house when to be enforced.

13. (1) If a house, in respect of which a notice is issued under section 7, is shown to the satisfaction of the Local Government, or is proved by a decree

Option in certain cases for owner on whom

notice is
issued under
section 7 to
call upon the
Government
to purchase.

decree or order of a Court of competent jurisdiction, to have been erected—

- (a) under any conditions, rules, regulations or orders which were in force in Bengal prior to the eighth day of December, 1864, and conferred on the owner the option of offering the house for sale to the military officer applying for its appropriation for his occupation or to the East India Company or the Government, or
- (b) under any conditions, rules, regulations or orders which were in force in Bombay prior to the first day of June, 1875, and conferred such an option as is described in clause (a),

then the owner shall have the option of either complying with the notice or offering the house for sale to the Government.

(2) If the owner elects to sell the house, and the Government is willing to purchase it, the question of the amount of the purchase-money to be paid shall, in the event of disagreement, be referred to a Committee of Arbitration.

Provision
where house
is held on
long lease by
a tenant

14. (1) If a house, in respect of which a notice is issued under section 7, is occupied by a tenant holding in good faith and for valuable consideration under a registered lease for any term exceeding one year, the Secretary of State for India in Council shall, for the term of one year from the date on which the house is vacated in pursuance of the notice, or for the unexpired term of the lease whichever is the shorter, be liable to the owner for the rent fixed by the registered lease instead of for the rent payable under this Act if the rent so fixed exceeds the rent so payable.

(2) If a house, in respect of which a notice is issued under section 7, is occupied by a tenant holding in good faith and for valuable consideration under a registered lease from year to year, the Secretary of State for India in Council shall be liable as aforesaid for the term of six months from
the

the date on which the house is vacated in pursuance of the notice.

(3) Nothing in this section shall be deemed—

(a) to render the said Secretary of State in Council so liable unless an application in writing in this behalf is made by the owner to the Commanding Officer of the cantonment within fifteen days from the service of the notice; or

(b) to limit or otherwise affect any agreement between the said Secretary of State in Council and the owner.

15. (1) If the owner considers that the rent stated in a notice issued under section 7 is not reasonable, he may, within a period of fifteen days from the service of such notice, require that the matter be referred by the Commanding Officer of the cantonment to a Committee of Arbitration.

Power for owner to require reference to arbitration on question of rent.

(2) If the owner does not make such a requisition within the said period, he shall be deemed to have accepted the rent so offered.

16. (1) If the owner fails to execute any repairs to a house as required by a notice issued to him under section 7, the Commanding Officer of the cantonment may by notice require the owner to execute the repairs within such period, not being less than fifteen days, as may be specified in the notice.

Power for owner to require reference to arbitration on question of repairs.

(2) If the owner objects to any requisition contained in a notice issued under sub-section (1), he may, within fifteen days from the service of the notice, require that the matter be referred by the Commanding Officer of the cantonment to a Committee of Arbitration.

17. Where—

(a) the owner fails to comply with a notice issued under sub-section (1) of section 16 and has not, within fifteen days from the service of such notice, required that the matter be referred to a Committee of Arbitration, or

Power to have repairs executed and recover cost.

(b) a

- (b) a Committee of Arbitration decides that repairs are necessary and the extent to which they are necessary, and specifies the period within which they are to be executed, and the owner fails to execute them within such period, and has not within one month from the date of the decision appealed therefrom to the Civil Court as hereinafter provided, or
- (c) the owner fails to execute within such period as may be specified by the Civil Court hearing such appeal such repairs as the Court may decide to be necessary,

the Military Works Services or the Public Works Department shall, on the application of the Commanding Officer of the cantonment, cause the repairs specified in the notice or, if the matter has been referred to a Committee of Arbitration, in the decision of the Committee or the Civil Court, as the case may be, to be executed at the expense of the Government, and the cost thereof may be deducted from the rent payable to the owner.

Notice to be given of devolution of interest in house in cantonment.

18. Every person on whom devolves, by transfer, by succession or by operation of law, the interest of an owner in any house, or in any part of any house, situate in a cantonment or part of a cantonment in respect of which a notification under subsection (1) of section 3 is for the time being in force, shall be bound to give notice of the fact to the Commanding Officer of the cantonment within one month from the date of such devolution, and, if he, without reasonable cause, fails to do so, he shall be punishable with fine which may extend to fifty rupees.

CHAPTER IV.

COMMITTEES OF ARBITRATION.

Convening of Committees of Arbitration in

19. In the event of any disagreement as to the amount of the purchase-money of a house to be sold under

under sub-section (2) of section 13, the Commanding Officer of the cantonment shall forthwith proceed to convene a Committee of Arbitration to determine it.

cases falling under sub-section (2) of section 13.

20. Where a requisition is made to the Commanding Officer of the cantonment by an owner under section 15 or section 16, the Commanding Officer of the cantonment shall forthwith proceed to convene a Committee of Arbitration—

Convening of Committees of Arbitration on requisition of owners.

- (a) to determine the amount of the rent to be paid, or
- (b) to determine whether any, and (if any) what, repairs are necessary, the extent to which they are necessary, and the period within which they are to be executed, or
- (c) otherwise to determine the question in dispute.

21. (1) Where a Committee of Arbitration is to be convened, the Commanding Officer of the cantonment shall forthwith cause an order to be published in Station Orders stating the matter to be determined.

Procedure for convening Committees of Arbitration generally.

(2) The Commanding Officer of the cantonment shall forthwith send a copy of such order to the District Magistrate and to the parties concerned, and, as soon as may be, shall by notice call upon the owner concerned to make, and shall himself make, nominations in accordance with the provisions of sections 22 and 23.

22. (1) Every Committee of Arbitration shall consist of five members, namely:—

Constitution of Committee of Arbitration.

- (a) two members nominated by the Commanding Officer of the cantonment, one of whom shall, if possible, be an officer of the Military Works Services or of the Public Works Department;
- (b) two members nominated by the owner concerned, who shall be persons liable to pay taxes in the cantonment and ordinarily

ordinarily resident therein or in the immediate vicinity thereof; and

- (c) a chairman who shall be a person not in the service of the Government or the Cantonment Authority and not having any interest in house-property in the cantonment, which has been appropriated or is liable to appropriation under this Act, and who shall be nominated by the Commanding Officer of the cantonment.

(2) If the Commanding Officer of the cantonment or the owner concerned fails without reasonable cause to nominate, within seven days from the date on which the owner has been called upon to make nominations under section 21, any member whom he is entitled to nominate under sub-section (1) or if any member who has been nominated neglects or refuses to act and the person by whom such member was nominated fails to nominate another member in his place within seven days from the date on which he may be called upon to do so by the District Magistrate, the District Magistrate shall forthwith appoint a member or members to fill the vacancy or vacancies.

Members of Committees of Arbitration to be persons who have no direct interest and whose services are immediately available.

23. (1) No person who has a direct interest in the matter under reference or whose services are not immediately available for the purposes of the Committee shall be nominated a member of a Committee of Arbitration.

(2) If, in the opinion of the District Magistrate, any person who has been nominated has a direct interest in the matter under reference, or is otherwise disqualified for nomination, or if the services of any such person are not immediately available as aforesaid, and if the person by whom any such person was nominated fails to nominate another member within seven days from the date on which he may be called upon to do so by the District Magistrate, such failure shall be deemed to constitute a failure to make a nomination within the meaning of section 22.

24. (1) When

24. (1) When a Committee of Arbitration has been duly constituted, the Commanding Officer of the cantonment shall by notice inform each of the members of the fact, and the Committee shall meet as soon as may be thereafter.

Meetings and powers of Committees of Arbitration.

(2) The Committee shall receive and record evidence and shall have power to administer oaths to witnesses, and the District Magistrate, on requisition in writing signed by the Chairman of the Committee, shall issue the necessary processes for the attendance of witnesses and the production of documents required by the Committee, and may enforce the said processes as if they were processes for attendance or production before himself.

25. The Chairman of the Committee of Arbitration shall fix the time and place of meeting, and shall have power to adjourn the meeting from time to time as may be necessary.

Powers of Chairman of Committee of Arbitration as to meetings.

26. In determining the amount of the purchase-money to be paid for a house to be sold under subsection (2) of section 13, the Committee of Arbitration shall estimate the market value of the house at the date on which the notice was served on the owner under section 7.

Calculation of amount of purchase-money by Committees of Arbitration.

27. In determining the amount of rent to be paid for a house, the Committee of Arbitration shall estimate the market value of the house at the date on which the notice was served on the owner under section 7, and shall fix the annual rent at such percentage on that value as is for the time being recoverable by way of annual rent on the market-value of similar houses in the cantonment:

Calculation of rent by Committees of Arbitration.

Provided that due allowance shall be made in respect of the cost to the lessee of maintaining the house in a state of reasonable repair during the period of the lease.

28. (1) The decision of every Committee of Arbitration shall be in accordance with the majority of votes taken at a meeting at which the chairman and at least three of the other members are present.

Decisions of Committees of Arbitration.

(2) If

(2) If there is not a majority of votes in favour of any proposed decision, the opinion of the chairman shall prevail.

(3) Save as provided in this Act, the decision of a Committee of Arbitration shall be final and shall not be questioned in any Court.

CHAPTER V.

APPEALS.

Appeal to
Civil Court.

29. (1) If the Commanding Officer of the cantonment, or the owner of a house in respect of which any matter has been referred to a Committee of Arbitration, is dissatisfied with any decision of the Committee of Arbitration, he may, within one month from the date of such decision, appeal to the principal Civil Court having ordinary original civil jurisdiction in the cantonment, and the decision of such Court shall be final.

(2) A Civil Court hearing an appeal under this section shall, so far as may be, follow the same procedure and have the same powers as it follows and has when hearing an appeal under the Code of Civil Procedure, 1908.

V of 1908

Appeal to
military
authorities.

30. (1) The owner or any tenant of a house in respect of which a notice has been issued under section 7 may appeal to the Officer Commanding the District or, if that officer is the Commanding Officer of the cantonment, to the General Officer Commanding-in-Chief, the Command, against the decision of the Commanding Officer of the cantonment to appropriate the house.

(2) No such appeal shall be admitted unless made within a period of twenty-one days from the service of the notice aforesaid, and such period shall be computed in accordance with the provisions of the Indian Limitation Act, 1908, with respect to the computation of periods of limitation thereunder.

IX of 1908.

31. (1) Every

31. (1) Every petition of appeal under section 30 shall be in writing and accompanied by a copy of the notice appealed against. Petition of appeal.

(2) Any such petition may be presented to the Commanding Officer of the cantonment, and that officer shall be bound to forward it to the authority empowered by section 30 to hear the appeal, and may attach thereto any report which he may desire to make in explanation of the notice appealed against.

(3) If any such petition is presented direct to the Officer Commanding the District and an immediate order on the petition is not necessary, the Officer Commanding the District may refer the petition to the Commanding Officer of the cantonment for report.

32. The decision on any such appeal of the Officer Commanding the District or of the General Officer Commanding-in-Chief, the Command, as the case may be, shall be final, and shall not be questioned in any Court otherwise than on the ground that the house is situate in a cantonment, or part of a cantonment in which this Act is not operative: Order in appeal final.

Provided that no appeal shall be decided until the appellant has been heard or has had a reasonable opportunity of being heard in person or through a legal practitioner.

33. Where an appeal has been presented under section 30 within the period prescribed by subsection (2) of that section, all action on the notice shall, on the application of the appellant, be held in abeyance pending the decision of the appeal. Suspension of action pending appeal.

CHAPTER VI.

SUPPLEMENTAL PROVISIONS.

34. Every notice or requisition prescribed by this Act shall be in writing, signed by the person by whom it is given or made or by his duly appointed agent, Service of notice and requisitions.

agent, and may be served by post on the person to whom it is addressed, or, in the case of an owner who does not reside in or near the cantonment, on his agent appointed under the Cantonments Act, 1910, or any rule made thereunder.

XV of 1910.

Power for Governor General in Council to make rules.

35. (1) The Governor General in Council may make rules to carry out the purposes and objects of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) regulate the procedure of Committees of Arbitration; and

(b) define the powers of entry, inspection, measurement or survey which may be exercised in carrying out the purposes and objects of this Act or of any rule made hereunder.

Further provisions respecting rules.

36. (1) The power to make rules under section 35 shall be subject to the condition of the rules being made after previous publication and of their not taking effect until they have been published in the Gazette of India and in such other manner (if any) as the Governor General in Council may direct.

(2) Any rule under section 35 may be general for all cantonments or parts of cantonments in British India in which this Act is for the time being operative, or may be special for any of such cantonments or parts as the Governor General in Council may direct.

(3) A copy of the rules under section 35 for the time being in force in a cantonment shall be kept open to inspection free of charge at all reasonable times in the office of the Cantonment Authority.

(4) In making any rule under clause (b) of subsection (2) of section 35, the Governor General in Council may direct that whoever obstructs any person, not being a public servant within the meaning of section 21 of the Indian Penal Code, in making any entry, inspection, measurement or survey, shall be punishable with fine which may extend to fifty

XLV of 1960.

fifty rupees, and, in the case of a continuing offence, with fine which, in addition to such fine as afore-said, may extend to five rupees for every day after the first during which such offence continues.

V of 1898

37. No Judge or Magistrate shall be deemed, within the meaning of section 556 of the Code of Criminal Procedure, 1898, to be a party to, or personally interested in, any prosecution for an offence constituted by or under this Act merely because he is a member of the Cantonment Committee or has ordered or approved the prosecution.

Inapplicability of section 556 of the Code of Criminal Procedure, 1898, to trials of offences.

38. No suit or other legal proceeding shall lie against any person for anything in good faith done, or intended to be done, under this Act or in pursuance of any lawful notice or order issued under this Act.

Protection to persons acting under Act.

39. On and from the commencement of this Act, the enactments mentioned in the Schedule shall be repealed to the extent specified in the fourth column thereof.

Repeals.

THE SCHEDULE.

[ENACTMENTS REPEALED.]

(See section 39.)

Year.	No.	Short title	Extent of repeal.
1902	II	The Cantonments (House-Accommodation) Act, 1902.	The whole
1909	V	The Amending (Army) Act, 1909.	So much as has not been repealed.
1914	IV	The Decentralization Act, 1914.	So much of the Schedule as relates to the Cantonments (House-Accommodation) Act, 1902.

CALCUTTA
SUPERINTENDENT GOVERNMENT PRINTING, INDIA
8, HASTINGS STREET

ACT No. VII OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the
5th March, 1923.)*

An Act to give effect in British India to the Treaty for the Limitation of Naval Armament.

WHEREAS it is expedient to give effect in British India to the Treaty for the Limitation of Naval Armament signed at Washington on behalf of His Majesty on the sixth day of February, 1922; It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Naval Armament Act, 1923.

Short title,
extent, and
commence-
ment.

(2) It extends to the whole of British India, and applies also to all subjects and servants of His Majesty in other parts of India.

(3) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions,

(a) “ competent Court ” means the High Court or such other Court having unlimited original civil jurisdiction as the Governor General in Council may declare to be a competent Court for the purposes of this Act;

(b) “ ship ” means any boat, vessel, battery or craft, whether wholly or partly constructed, which is intended to float or is capable of floating on water, and includes all equipment belonging to any ship; and

(c) “ the

- (c) “the Treaty” means those Articles of the Treaty for the Limitation of Naval Armament signed at Washington on behalf of His Majesty on the sixth day of February, 1922, which are set out in the Schedule.

Restriction
on building
or equipping
vessels of war.

3. No person shall, except under and in accordance with the conditions of a licence granted under this Act,—

- (a) build any vessel of war, or alter, arm or equip any ship so as to adapt her for use as a vessel of war; or
- (b) despatch or deliver, or allow to be despatched or delivered, from any place in British India any ship which has been, either wholly or partly, built, altered, armed or equipped as a vessel of war in any part of His Majesty's Dominions or in a State in India otherwise than under and in accordance with any law for the time being in force in that part or State.

Licences.

4. (1) A licence under this Act for any of the purposes specified in section 3 may be granted by the Local Government, and shall not be refused unless it appears to the Local Government that such refusal is necessary for the purpose of securing the observance of the obligations imposed by the Treaty; and, where a licence is granted subject to conditions, the conditions shall be such only as the Local Government may think necessary for the purpose aforesaid.

(2) An application for a licence under this section shall be in such form and shall be accompanied by such designs and particulars as the Local Government may, by general or special order, require.

Offences
against the
Act.

5. (1) If any person contravenes any of the provisions of section 3, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

(2) Where

(2) Where an offence punishable under subsection (1) has been committed by a company or corporation, every director and manager of such company or corporation shall be punishable thereunder unless he proves that the act constituting the offence took place without his knowledge and consent.

V of 1893.

(3) Nothing contained in section 517 or section 518 or section 520 of the Code of Criminal Procedure, 1898, shall be deemed to authorise the destruction or confiscation under the order of any Criminal Court of any ship which is liable to forfeiture under this Act or of any part of such ship.

6. Any ship which has been, either wholly or partly, built, altered, armed, or equipped as a vessel of war in British India in contravention of section 3, or in any other part of His Majesty's Dominions or any State in India in contravention of any like provision of law in force in that part or State, shall, if found in British India, be liable to forfeiture under this Act.

Liability of ships to forfeiture.

7. (1) Where a ship is liable to forfeiture under this Act,—

Seizure, detention and search of ships.

- (a) any Presidency Magistrate or Magistrate of the first class, or
- (b) any commissioned officer on full pay in the military, naval or air service of His Majesty, or any gazetted officer of the Royal Indian Marine Service, or
- (c) any officer of customs or police-officer not below such rank as may be designated in this behalf by the Governor General in Council,

may seize such ship and detain it, and, if the ship is found at sea within the territorial waters of British India, may bring it to any convenient port in British India.

(2) Any officer taking any action under subsection (1) shall forthwith report the same through his official superiors to the Local Government.

(3) The Local Government shall, within thirty days of the seizure, either cause the ship to be released

released or make or cause to be made, in the manner hereinafter provided, an application for the forfeiture thereof, and may make such orders for the temporary disposal of the ship as it thinks suitable.

Procedure
in forfeiture
of ships.

8. (1) An application for the forfeiture of a ship under this Act may be made by, or under authority from, the Local Government to any competent Court within the local limits of whose jurisdiction the ship is for the time being.

(2) On receipt of any such application, the Court shall cause notice thereof and of the date fixed for the hearing of the application to be served upon all persons appearing to it to have an interest in the ship, and may give such directions for the temporary disposal of the ship as it thinks fit.

(3) For the purpose of disposing of an application under this section, the Court shall have the same powers and follow, as nearly as may be, the same procedure as it respectively has and follows for the purpose of the trial of suits under the Code of Civil Procedure, 1908, and any order made by the Court ^{v of 1908.} under this section shall be deemed to be a decree, and the provisions of the said Code in regard to the execution of decrees shall, as far as they are applicable, apply accordingly.

(4) Where the Court is satisfied that the ship is liable to forfeiture under this Act, it shall pass an order forfeiting the ship to His Majesty :

Provided that, where any person having an interest in the ship proves to the satisfaction of the Court that he has not abetted, or connived at, or by his negligence facilitated, in any way, a contravention of section 3 in respect of the ship, and such ship has not been built as a vessel of war, it may pass such other order as it thinks fit in respect of the ship or, if it be sold, of the sale proceeds thereof :

Provided, further, that in no case shall any ship which has been altered, armed or equipped as a vessel of war be released until it has been restored, to the satisfaction of the Local Government, to such condition

condition as not to render it liable to forfeiture under this Act.

(5) The Local Government or any person aggrieved by any order of a Court, other than a High Court, under this section may, within three months of the date of such order, appeal to the High Court.

9. Where a ship has been forfeited to His Majesty under section 8, it may be disposed of in such manner as the Local Government, subject to the control of the Governor General in Council, directs : Disposal of forfeit.

Provided that, where the ship is sold under this section, due regard shall be had to the obligations imposed by the Treaty.

10. If, in any trial, appeal or other proceeding under the foregoing provisions of this Act, any question arises as to whether a ship is a vessel of war, or whether any alteration, arming or equipping of a ship is such as to adapt it for use as a vessel of war, the question shall be referred to and determined by the Governor General in Council, whose decision shall be final and shall not be questioned in any Court. Special proof of relevant facts.

11. (1) Where a ship which has been seized or detained under section 7 or section 8 and has not been released by competent authority under this Act proceeds to sea, the master of the ship shall be punishable with fine which may extend to one thousand rupees, and the owner and any person who sends the ship to sea shall be likewise so punishable unless such owner or person proves that the offence was committed without his knowledge and consent. Penalties for proceeding to sea after seizure.

(2) Where any ship so proceeding to sea takes to sea, when on board thereof in the execution of his duty any officer empowered by this Act to seize and detain the ship, the owner and master shall further each be liable, on the order of the Court trying an offence punishable under sub-section (1), to pay all the expenses of and incidental to such officer being taken to sea, and shall further be punishable with fine which may extend to one hundred rupees for every day until such officer returns

returns or until such time as would enable him after leaving the ship to return to the port from which he was taken.

(3) Any expenses ordered to be paid under subsection (2) may be recovered in the manner provided in the Code of Criminal Procedure, 1898, for the ^{V of 1898.} recovery of a fine.

Power to
enter dock-
yards, etc.

12. (1) Any person empowered by this Act to seize and detain any ship may, at any reasonable time by day or night, enter any dockyard, shipyard or other place and make inquiries respecting any ship which he has reason to believe is liable to forfeiture under this Act, and may search such ship with a view to ascertaining whether the provisions of this Act have been or are being duly observed in respect thereof, and every person in charge of or employed in such place shall on request be bound to give the person so empowered all reasonable facilities for such entry and search and for making such inquiries.

(2) The provisions of sections 101, 102 and 103 of the Code of Criminal Procedure, 1898, shall apply ^{v of 1898.} in the case of all searches made under this section.

Courts by
which and
conditions
subject to
which offences
may be tried.

13. No Court inferior to that of a Presidency Magistrate or Magistrate of the first class shall proceed to the trial of any offence punishable under this Act, and no Court shall proceed to the trial of any such offence except on complaint made by, or under authority from, the Local Government.

Indemnity.

14. No prosecution, suit or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act.

THE SCHEDULE.

(See section 2.)

ARTICLES OF TREATY FOR THE LIMITATION OF NAVAL ARMAMENT.

ARTICLE V.

No capital ship exceeding 35,000 tons (35,560 metric
tons) standard displacement shall be acquired by, or
constructed

constructed by, for, or within the jurisdiction of, any of the Contracting Powers.

ARTICLE VI.

No capital ship of any of the Contracting Powers shall carry a gun with a calibre in excess of 16 inches (406 millimetres).

ARTICLE IX.

No aircraft carrier exceeding 27,000 tons (27,432 metric tons) standard displacement shall be acquired by, or constructed by, for, or within the jurisdiction of, any of the Contracting Powers.

* † ‡

ARTICLE X.

No aircraft carrier of any of the Contracting Powers shall carry a gun with a calibre in excess of 8 inches (203 millimetres). Without prejudice to the provisions of Article IX, if the armament carried includes guns exceeding 6 inches (152 millimetres) in calibre the total number of guns carried, except anti-aircraft guns and guns not exceeding 5 inches (127 millimetres), shall not exceed ten. If alternatively the armament contains no guns exceeding 6 inches (152 millimetres) in calibre, the number of guns is not limited. In either case the number of anti-aircraft guns and of guns not exceeding 5 inches (127 millimetres) is not limited.

ARTICLE XI.

No vessel of war exceeding 10,000 tons (10,160 metric tons) standard displacement, other than a capital ship or aircraft carrier, shall be acquired by, or constructed by, for, or within the jurisdiction of, any of the Contracting Powers. Vessels not specifically built as fighting ships nor taken in time of peace under Government control for fighting purposes, which are employed on fleet duties or as troop transports or in some other way for the purpose of assisting in the prosecution of hostilities otherwise than as fighting ships, shall not be within the limitations of this Article.

ARTICLE

ARTICLE XII.

No vessel of war of any of the Contracting Powers, hereafter laid down, other than a capital ship, shall carry a gun with a calibre in excess of 8 inches (203 millimetres).

ARTICLE XIV.

No preparations shall be made in merchant ships in time of peace for the installation of warlike armaments for the purpose of converting such ships into vessels of war, other than the necessary stiffening of decks for the mounting of guns not exceeding 6-inch (152 millimetres) calibre.

ARTICLE XV.

No vessel of war constructed within the jurisdiction of any of the Contracting Powers for a non-Contracting Power shall exceed the limitations as to displacement and armament prescribed by the present Treaty for vessels of a similar type which may be constructed by or for any of the Contracting Powers, provided, however, that the displacement for aircraft carriers constructed for a non-Contracting Power shall in no case exceed 27,000 tons (27,432 metric tons) standard displacement.

ARTICLE XVI.

If the construction of any vessel of war for a non-Contracting Power is undertaken within the jurisdiction of any of the Contracting Powers, such Power shall promptly inform the other Contracting Powers of the date of the signing of the contract and the date on which the keel of the ship is laid; and shall also communicate to them the particulars relating to the ship prescribed in Chapter II, Part 3, section 1 (b), (4) and (5).

ARTICLE XVIII.

Each of the Contracting Powers undertakes not to dispose by gift, sale or any mode of transfer of any vessel of war in such a manner that such vessel may become a vessel of war in the navy of any foreign Power.

CHAPTER II.—PART 3.—SECTION 1.

- (b) Each of the Contracting Powers shall communicate promptly to each of the other Contracting Powers the following information:—

* * *

- (4) The standard displacement in tons and metric tons of each new ship to be laid down, and the principal dimensions, namely, length at waterline, extreme beam at or below waterline, mean draught at standard displacement.
- (5) The date of completion of each new ship and its standard displacement in tons and metric tons, and the principal dimensions, namely, length at waterline, extreme beam at or below waterline, mean draught at standard displacement, at time of completion.

PART 4.—DEFINITIONS.

For the purposes of the present Treaty, the following expressions are to be understood in the sense defined in this Part.

Capital Ship.

A capital ship, in the case of ships hereafter built, is defined as a vessel of war, not an aircraft carrier, whose displacement exceeds 10,000 tons (10,160 metric tons) standard displacement, or which carries a gun with a calibre exceeding 8 inches (203 millimetres).

Aircraft Carrier.

An aircraft carrier is defined as a vessel of war with a displacement in excess of 10,000 tons (10,160 metric tons) standard displacement designed for the specific and exclusive purpose of carrying aircraft. It must be so constructed that aircraft can be launched therefrom and landed thereon, and not designed and constructed for carrying a more powerful armament than that allowed to it under Article IX or Article X, as the case may be.

Standard Displacement.

The standard displacement of a ship is the displacement of the ship complete, fully manned, engined, and equipped

Indian Naval Armament. [ACT VII OF 1923.]

equipped ready for sea, including all armament and ammunition, equipment, outfit, provisions and fresh water for crew, miscellaneous stores and implements of every description that are intended to be carried in war, but without fuel or reserve feed water on board.

The word "ton" in the present Treaty, except in the expression "metric tons," shall be understood to mean the ton of 2,240 pounds (1,016 kilo).

Vessels now completed shall retain their present ratings of displacement tonnage in accordance with their national system of measurement. However, a Power expressing displacement in metric tons shall be considered for the application of the present Treaty as owning only the equivalent displacement in tons of 2,240 pounds.

A vessel completed hereafter shall be rated at its displacement tonnage when in the standard condition defined herein.

ACT No. VIII OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 5th March, 1923.)

An Act to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident.

WHEREAS it is expedient to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Workmen's Compensation Act, 1923.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) It shall come into force on the first day of July, 1924.

2. (1) In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(a) “adult” and “minor” mean respectively a person who is not and a person who is under the age of fifteen years;

(b) “Commissioner” means a Commissioner for Workmen's Compensation appointed under section 20;

(c) “compensation” means compensation as provided for by this Act;

(d) “dependant” means any of the following relatives of a deceased workman, namely,

a
1

a wife, husband, parent, minor son, unmarried daughter, married daughter who is a minor, minor brother or unmarried sister, and includes the minor children of a deceased son of the workman and, where no parent of the workman is alive, a paternal grand-parent;

- (e) “ employer ” includes any body of persons whether incorporated or not and any managing agent of an employer and the legal representative of a deceased employer, and, when the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, means such other person while the workman is working for him;
- (f) “ managing agent ” means any person appointed or acting as the representative of another person for the purpose of carrying on such other person's trade or business, but does not include an individual manager subordinate to an employer;
- (g) “ partial disablement ” means, where the disablement is of a temporary nature, such disablement as reduces the earning capacity of a workman in any employment in which he was engaged at the time of the accident resulting in the disablement, and, where the disablement is of a permanent nature, such disablement as reduces his earning capacity in every employment which he was capable of undertaking at that time : provided that every injury specified in Schedule I shall be deemed to result in permanent partial disablement;
- (h) “ prescribed ” means prescribed by rules made under this Act;

(i) “ qualified

21 & 22 Vict
c. 90.

(i) "qualified medical practitioner" means any person registered under the Medical Act, 1858, or any Act amending the same, or under any Act of any Legislature in British India providing for the maintenance of a register of medical practitioners, or, any area where no such last-mentioned Act is in force, any person declared by the Local Government, by notification in the local official Gazette, to be a qualified medical practitioner for the purposes of this Act;

XIX of 1838.

X of 1841.

XI of 1850.

(j) "registered ship" means any sea-going ship registered under the Bombay Coasting Vessels Act, 1838, or the Indian Registration of Ships Act, 1841, or the Indian Registration of Ships Act (1841) Amendment Act, 1850, or any home-trade ship so registered of a registered tonnage of not less than three hundred tons, or any inland steam-vessel as defined in section 2 of the Inland Steam Vessels Act, 1917, of a registered tonnage of not less than one hundred tons;

I of 1917.

(k) "seaman" means any person forming part of the crew of any registered ship, but does not include the master of any such ship;

(l) "total disablement" means such disablement, whether of a temporary or permanent nature, as incapacitates a workman for all work which he was capable of performing at the time of the accident resulting in such disablement: provided that permanent total disablement shall be deemed to result from the permanent total loss of the sight of both eyes or from any combination of injuries specified in Schedule I where the aggregate percentage of the loss of earning capacity, as specified in that Schedule against those injuries,

(b) in respect of any injury to a workman resulting from an accident which is directly attributable to—

(i) the workman having been at the time thereof under the influence of drink or drugs, or

(ii) the wilful disobedience of the workman to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of workmen, or

(iii) the wilful removal or disregard by the workman of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of workmen; or

(c) except in the case of death or permanent total disablement, in respect of any workman employed in the construction, repair or demolition of a building or bridge.

(2) If a workman employed in any employment involving the handling of wool, hair, bristles, hides or skins contracts the disease of anthrax, or if a workman, whilst in the service of an employer in whose service he has been employed for a continuous period of not less than six months in any employment specified in Schedule III, contracts any disease specified therein as an occupational disease peculiar to that employment, the contracting of the disease shall be deemed to be an injury by accident within the meaning of this section and, unless the employer proves the contrary, the accident shall be deemed to have arisen out of and in the course of the employment.

Explanation.—For the purposes of this sub-section a period of service shall be deemed to be continuous which has not included a period of service under any other employer.

(3) The

(3) The Governor General in Council, after giving, by notification in the Gazette of India, not less than three months' notice of his intention so to do, may, by a like notification, add any description of employment to the employments specified in Schedule III, and shall specify in the case of the employments so added the diseases which shall be deemed for the purposes of this section to be occupational diseases peculiar to those employments respectively, and the provisions of sub-section (2) shall thereupon apply as if such diseases had been declared by this Act to be occupational diseases peculiar to those employments.

(4) Save as provided by sub-sections (2) and (3), no compensation shall be payable to a workman in respect of any disease unless the disease is solely and directly attributable to a specific injury by accident arising out of and in the course of his employment.

(5) Nothing herein contained shall be deemed to confer any right to compensation on a workman in respect of any injury if he has instituted in a Civil Court a suit for damages in respect of the injury against the employer or any other person; and no suit for damages shall be maintainable by a workman in any Court of law in respect of any injury—

(a) if he has instituted a claim to compensation in respect of the injury before a Commissioner; or

(b) if an agreement has been come to between the workman and his employer providing for the payment of compensation in respect of the injury in accordance with the provisions of this Act.

4. (1) Subject to the provisions of this Act, the amount of compensation shall be as follows, Amount of compensation. namely :—

A. Where death results from the injury—

(i) in the case of an adult, a sum equal to thirty months' wages or two thousand five hundred rupees, whichever is less, and

(ii) in

- (ii) in the case of a minor, two hundred rupees;
- B. Where permanent total disablement results from the injury—
 - (i) in the case of an adult, a sum equal to forty-two months' wages or three thousand five hundred rupees whichever is less, and
 - (ii) in the case of a minor, a sum equal to eighty-four months' wages or three thousand five hundred rupees, whichever is less;
- C. Where permanent partial disablement results from the injury—
 - (i) in the case of an injury specified in Schedule I, such percentage of the compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of the loss of earning capacity caused by that injury, and
 - (ii) in the case of an injury not specified in Schedule I, such percentage of the compensation payable in the case of permanent total disablement as is proportionate to the loss of earning capacity permanently caused by the injury;

Explanation.—Where more injuries than one are caused by the same accident, the amount of compensation payable under this head shall be aggregated but not so in any case as to exceed the amount which would have been payable if permanent total disablement had resulted from the injuries.

- D. Where temporary disablement, whether total or partial, results from the injury, a half-monthly payment payable on the sixteenth day after the expiry of a waiting

waiting period of ten days from the date of the disablement, and thereafter half-monthly during the disablement or during a period of five years, whichever period is shorter,—

- (i) in the case of an adult, of fifteen rupees or a sum equal to one-fourth of his monthly wages, whichever is less, and
- (ii) in the case of a minor, of a sum equal to one-third or, after he has attained the age of fifteen years, to one-half of his monthly wages, but not exceeding in any case fifteen rupees :

Provided that there shall be deducted from any lump sum or half-monthly payments to which the workman is entitled the amount of any payment or allowance which the workman has received from the employer by way of compensation during the period of disablement prior to the receipt of such lump sum or of the first half-monthly payment, as the case may be, and no half-monthly payment shall in any case exceed the amount, if any, by which half the amount of the monthly wages of the workman before the accident exceeds half the amount of such wages which he is earning after the accident.

(2) On the ceasing of the disablement before the date on which any half-monthly payment falls due, there shall be payable in respect of that half-month a sum proportionate to the duration of the disablement in that half-month.

5. For the purposes of section 4 the monthly wages of a workman shall be calculated as follows, namely :—

Method of
calculating
wages.

- (a) where the workman has, during a continuous period of not less than twelve months immediately preceding the accident, been in the service of the employer who is liable to pay compensation, the

monthly

monthly wages of the workman shall be one-twelfth of the total wages which have fallen due for payment to him by the employer in the last twelve months of that period;

- (b) in other cases, the monthly wages shall be thirty times the total wages earned in respect of the last continuous period of service immediately preceding the accident from the employer who is liable to pay compensation, divided by the number of days comprising such period:

Provided that the sum arrived at by a calculation under clause (a) or clause (b) shall be increased or decreased, as the case may be, to the amount specified in the second column of Schedule IV against the head specified in the first column thereof within the limits of which such sum is included.

Explanation.—A period of service shall, for the purposes of this section, be deemed to be continuous which has not been interrupted by a period of absence from work exceeding fourteen days.

Review.

6. (1) Any half-monthly payment payable under this Act, either under an agreement between the parties or under the order of a Commissioner, may be reviewed by the Commissioner on the application either of the employer or of the workman accompanied by the certificate of a qualified medical practitioner that there has been a change in the condition of the workman or, subject to rules made under this Act, on application made without such certificate.

(2) Any half-monthly payment may, on review under this section, subject to the provisions of this Act, be continued, increased, decreased or ended, or, if the accident is found to have resulted in permanent disablement, be converted to the lump sum to which the workman is entitled less any amount which he has already received by way of half-monthly payments.

7. Any

7. Any right to receive half-monthly payments may, by agreement between the parties or, if the parties cannot agree and the payments have been continued for not less than six months, on the application of either party to the Commissioner, be redeemed by the payment of a lump sum of such amount as may be agreed to by the parties or determined by the Commissioner, as the case may be.

*Commutation
of half-
monthly
payments.*

8. (1) Compensation payable in respect of a workman whose injury has resulted in death shall be deposited with the Commissioner, and any sum so deposited shall be apportioned among the dependants of the deceased workman or any of them in such proportion as the Commissioner thinks fit, or may, in the discretion of the Commissioner, be allotted to any one such dependant, and the sum so allotted to any dependant shall be paid to him or, if he is a person under any legal disability, be invested, applied or otherwise dealt with for his benefit during such disability in such manner as the Commissioner thinks fit.

*Distribution
of com-
pensation.*

(2) Any other compensation payable under this Act may be deposited with the Commissioner and, when so deposited, shall be paid by the Commissioner to the person entitled thereto.

(3) The receipt of the Commissioner shall be a sufficient discharge in respect of any amount deposited with him under sub-section (1) or sub-section (2).

(4) On the deposit of any money under sub-section (1), the Commissioner may deduct therefrom the actual cost of the workman's funeral expenses, to an amount not exceeding fifty rupees, and pay the same to the person by whom such expenses were incurred, and shall, if he thinks necessary, cause notice to be published or to be served on each dependant in such manner as he thinks fit, calling upon the dependants to appear before him on such date as he may fix for determining the distribution of the compensation. If the Commissioner is satisfied, after any inquiry

which

which he may deem necessary, that no dependant exists, he shall repay the balance of the money to the employer by whom it was paid. The Commissioner shall, on application by the employer, furnish a statement showing in detail all disbursements made.

(5) Where a half-monthly payment is payable under this Act to a person under any legal disability, the Commissioner may, of his own motion or on application made to him in this behalf, order that the half-monthly payment be paid during the disability to any dependant of the workman or to any other person whom he thinks best fitted to provide for the welfare of the workman.

(6) Where, on application made to him in this behalf or otherwise, the Commissioner is satisfied that, on account of neglect of children on the part of a parent or on account of the variation of the circumstances of any dependant or for any other sufficient cause, an order of the Commissioner as to the distribution of any sum paid as compensation or as to the manner in which any sum payable to any such dependant is to be invested, applied or otherwise dealt with, ought to be varied, the Commissioner may make such orders for the variation of the former order as he thinks just in the circumstances of the case :

Provided that no such order prejudicial to any person shall be made unless such person has been given an opportunity of showing cause why the order should not be made, or shall be made in any case in which it would involve the repayment by a dependant of any sum already paid to him.

Compensation
not to be
assigned,
attached or
charged.

9. Save as provided by this Act, no lump sum or half-monthly payment payable under this Act shall in any way be capable of being assigned or charged or be liable to attachment or pass to any person other than the workman by operation of law, nor shall any claim be set off against the same.

10. (1) No

10. (1) No proceedings for the recovery of compensation shall be maintainable before a Commissioner unless notice of the accident has been given, in the manner hereinafter provided, as soon as practicable after the happening thereof and before the workman has voluntarily left the employment in which he was injured, and unless the claim for compensation with respect to such accident has been instituted within six months of the occurrence of the accident or, in case of death, within six months from the date of death : Notice and claim.

Provided that, where the accident is the contracting of a disease in respect of which the provisions of sub-section (2) of section 3 are applicable, the accident shall be deemed to have occurred on the first of the days during which the workman was continuously absent from work in consequence of the disablement caused by the disease :

Provided, further, that the Commissioner may admit and decide any claim to compensation in any case notwithstanding that the notice has not been given, or the claim has not been instituted, in due time as provided in this sub-section, if he is satisfied that the failure so to give the notice or institute the claim, as the case may be, was due to sufficient cause.

(2) Every such notice shall give the name and address of the person injured and shall state in ordinary language the cause of the injury and the date on which the accident happened, and shall be served on the employer or upon any one or several employers, or upon any person directly responsible to the employer for the management of any branch of the trade or business in which the injured workman was employed.

(3) The notice may be served by delivering the same at, or sending it by registered post addressed to, the residence or any office or place of business of the person on whom it is to be served.

11. (1) Where

Medical
examination

11. (1) Where a workman has given notice of an accident, he shall, if the employer, before the expiry of three days from the time at which service of the notice has been effected, offers to have him examined free of charge by a qualified medical practitioner, submit himself for such examination, and any workman who is in receipt of a half-monthly payment under this Act shall, if so required, submit himself for such examination from time to time :

Provided that a workman shall not be required to submit himself for examination by a medical practitioner otherwise than in accordance with rules made under this Act, or at more frequent intervals than may be prescribed.

(2) If a workman, on being required to do so by the employer under sub-section (1) or by the Commissioner at any time, refuses to submit himself for examination by a qualified medical practitioner or in any way obstructs the same, his right to compensation shall be suspended during the continuance of such refusal or obstruction unless, in the case of refusal, he was prevented by any sufficient cause from so submitting himself.

(3) If a workman, before the expiry of the period within which he is liable under sub-section (1) to be required to submit himself for medical examination, voluntarily leaves without having been so examined the vicinity of the place in which he was employed, his right to compensation shall be suspended until he returns and offers himself for such examination.

(4) Where a workman, whose right to compensation has been suspended under sub-section (2) or sub-section (3), dies without having submitted himself for medical examination as required by either of those sub-sections, the Commissioner may, if he thinks fit, direct the payment of compensation to the dependants of the deceased workman.

(5) Where under sub-section (2) or sub-section (3) a right to compensation is suspended, no compensation

compensation shall be payable in respect of the period of suspension, and, if the period of suspension commences before the expiry of the waiting period referred to in clause D of sub-section (1) of section 4, the waiting period shall be increased by the period during which the suspension continues.

(6) Where an injured workman has refused to be attended by a qualified medical practitioner whose services have been offered to him by the employer free of charge or having accepted such offer has deliberately disregarded the instructions of such medical practitioner, then, if it is thereafter proved that the workman has not been regularly attended by a qualified medical practitioner and that such refusal, failure or disregard was unreasonable in the circumstances of the case and that the injury has been aggravated thereby, the injury and resulting disablement shall be deemed to be of the same nature and duration as they might reasonably have been expected to be if the workman had been regularly attended by a qualified medical practitioner, and compensation, if any, shall be payable accordingly.

12. (1) Where any person (hereinafter in this section referred to as the principal) in the course of or for the purposes of his trade or business contracts with any other person (hereinafter in this section referred to as the contractor) for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the trade or business of the principal, the principal shall be liable to pay to any workman employed in the execution of the work any compensation which he would have been liable to pay if that workman had been immediately employed by him; and where compensation is claimed from the principal, this Act shall apply as if references to the principal were substituted for references to the employer except that the amount of compensation shall be calculated with reference to the wages of the workman under the employer by whom he is immediately employed.

(2) Where

(2) Where the principal is liable to pay compensation under this section, he shall be entitled to be indemnified by the contractor, and all questions as to the right to and the amount of any such indemnity shall, in default of agreement, be settled by the Commissioner.

(3) Nothing in this section shall be construed as preventing a workman from recovering compensation from the contractor instead of the principal.

(4) This section shall not apply in any case where the accident occurred elsewhere than on, in or about the premises on which the principal has undertaken or usually undertakes, as the case may be, to execute the work or which are otherwise under his control or management.

Remedies of
employer
against
stranger.

13. Where a workman has recovered compensation in respect of any injury caused under circumstances creating a legal liability of some person other than the person by whom the compensation was paid to pay damages in respect thereof, the person by whom the compensation was paid and any person who has been called on to pay an indemnity under section 12 shall be entitled to be indemnified by the person so liable to pay damages as aforesaid.

Insolvency
of employer.

14. (1) Where any employer has entered into a contract with any insurers in respect of any liability under this Act to any workman, then in the event of the employer becoming insolvent or making a composition or scheme of arrangement with his creditors or, if the employer is a company, in the event of the company having commenced to be wound up, the rights of the employer against the insurers as respects that liability shall, notwithstanding anything in any law for the time being in force relating to insolvency or the winding up of companies, be transferred to and vest in the workman, and upon any such transfer the insurers shall have the same rights and remedies and be subject to the same liabilities as if they were the employer, so, however, that the insurers shall not be

be under any greater liability to the workman than they would have been under to the employer.

(2) If the liability of the insurers to the workman is less than the liability of the employer to the workman, the workman may prove for the balance in the insolvency proceedings or liquidation.

(3) Where in any case such as is referred to in sub-section (1) the contract of the employer with the insurers is void or voidable by reason of non-compliance on the part of the employer with any terms or conditions of the contract (other than a stipulation for the payment of premia), the provisions of that sub-section shall apply as if the contract were not void or voidable, and the insurers shall be entitled to prove in the insolvency proceedings or liquidation for the amount paid to the workman :

Provided that the provisions of this sub-section shall not apply in any case in which the workman fails to give notice to the insurers of the happening of the accident and of any resulting disablement as soon as practicable after he becomes aware of the institution of the insolvency or liquidation proceedings.

III of 1909.
V of 1920.
VII of 1913.

(4) There shall be deemed to be included among the debts which under section 49 of the Presidency-towns Insolvency Act, 1909, or under section 61 of the Provincial Insolvency Act, 1920, or under section 230 of the Indian Companies Act, 1913, are in the distribution of the property of an insolvent or in the distribution of the assets of a company being wound up to be paid in priority to all other debts, the amount due in respect of any compensation the liability wherefor accrued before the date of the order of adjudication of the insolvent or the date of the commencement of the winding up, as the case may be, and those Acts shall have effect accordingly.

(5) Where the compensation is a half-monthly payment, the amount due in respect thereof shall, for the purposes of this section, be taken to be the amount

amount of the lump sum for which the half-monthly payment could, if redeemable, be redeemed if application were made for that purpose under section 7, and a certificate of the Commissioner as to the amount of such sum shall be conclusive proof thereof.

(6) The provisions of sub-section (4) shall apply in the case of any amount for which an insurer is entitled to prove under sub-section (3), but otherwise those provisions shall not apply where the insolvent or the company being wound up has entered into such a contract with insurers as is referred to in sub-section (1).

(7) This section shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

Special provisions relating to masters and seamen.

15. This Act shall apply in the case of workmen who are masters of registered ships or seamen subject to the following modifications, namely :—

(1) The notice of the accident and the claim for compensation may, except where the person injured is the master of the ship, be served on the master of the ship as if he were the employer, but where the accident happened and the disablement commenced on board the ship, it shall not be necessary for any seaman to give any notice of the accident.

(2) In the case of the death of a master or seaman, the claim for compensation shall be made within six months after the news of the death has been received by the claimant or, where the ship has been or is deemed to have been lost with all hands, within eighteen months of the date on which the ship was, or is deemed to have been, so lost.

(3) Where an injured master or seaman is discharged or left behind in any part of His Majesty's dominions or in a foreign country, any depositions taken by any Judge or Magistrate in that part or by any Consular Officer in the foreign country and transmitted

transmitted by the person by whom they are taken to the Governor General in Council or any Local Government shall, in any proceedings for enforcing the claim, be admissible in evidence—

- (a) if the deposition is authenticated by the signature of the Judge, Magistrate or Consular Officer before whom it is made;
- (b) if the defendant or the person accused, as the case may be, had an opportunity by himself or his agent to cross-examine the witness; and
- (c) if the deposition was made in the course of a criminal proceeding, on proof that the deposition was made in the presence of the person accused;

and it shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition and a certificate by such person that the defendant or the person accused had an opportunity of cross-examining the witness and that the deposition if made in a criminal proceeding was made in the presence of the person accused shall, unless the contrary is proved, be sufficient evidence that he had that opportunity and that it was so made.

(4) In the case of the death of a master or seaman leaving no dependants, the Commissioner shall, if the owner of the ship is under any law in force for the time being in British India relating to merchant shipping liable to pay the expenses of burial of the master or seaman, return to the employer the full amount of the compensation deposited under sub-section (1) of section 8 without making the deduction referred to in sub-section (4) of that section.

(5) No monthly payment shall be payable in respect of the period during which the owner of the ship is, under any law in force for the time being in British India relating to merchant shipping,

shipping, liable to defray the expenses of maintenance of the injured master or seaman.

Returns as
to compensa-
tion.

16. The Governor General in Council may, by notification in the Gazette of India, direct that every person employing workmen, or that any specified class of such persons, shall send at such time and in such form and to such authority, as may be specified in the notification, a correct return specifying the number of injuries in respect of which compensation has been paid by the employer during the previous year and the amount of such compensation, together with such other particulars as to the compensation as the Governor General in Council may direct.

Contracting
out.

17. Any contract or agreement whether made before or after the commencement of this Act, whereby a workman relinquishes any right of compensation from the employer for personal injury arising out of or in the course of the employment, shall be null and void in so far as it purports to remove or reduce the liability of any person to pay compensation under this Act

Proof of age.

18. Where any question arises as to the age of a person injured by accident arising out of and in the course of his employment in a factory, a certificate granted in respect of such person under section 7 or section 8 of the Indian Factories Act, XII of 1911, before the occurrence of the injury shall be conclusive proof of the age of such person.

CHAPTER III.

COMMISSIONERS.

Reference
to Com-
missioners.

19. (1) If any question arises in any proceedings under this Act as to the liability of any person to pay compensation (including any question as to whether a person injured is or is not a workman) or as to the amount or duration of compensation (including any question as to the nature or extent of

of disablement), the question shall, in default of agreement, be settled by the Commissioner.

(2) No Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by a Commissioner or to enforce any liability incurred under this Act.

20. (1) The Local Government may, by notification in the local official Gazette, appoint any person to be a Commissioner for Workmen's Compensation for such local area as may be specified in the notification.

Appointment
of Com-
missioners.

(2) Any Commissioner may, for the purpose of deciding any matter referred to him for decision under this Act, choose one or more persons possessing special knowledge of any matter relevant to the matter under inquiry to assist him in holding the inquiry.

(3) Every Commissioner shall be deemed to be a public servant within the meaning of the Indian

XLV of 1860. Penal Code.

21. (1) Where any matter is under this Act to be done by or before a Commissioner, the same shall, subject to the provisions of this Act and to any rules made hereunder, be done by or before the Commissioner for the local area in which the accident took place which resulted in the injury:

Venue of
proceedings
and transfer.

Provided that, where the workman is the master of a registered ship or a seaman, any such matter may be done by or before the Commissioner for the local area in which the owner or agent of the ship resides or carries on business.

(2) If a Commissioner is satisfied by any party to any proceedings under this Act pending before him that such matter can be more conveniently dealt with by any other Commissioner, whether in the same province or not, he may, subject to rules made under this Act, order such matter to be transferred to such other Commissioner either for report or for disposal, and, if he does so, shall forthwith transmit to such other Commissioner

Commissioner all documents relevant for the decision of such matter and, where the matter is transferred for disposal, shall also transmit in the prescribed manner any money remaining in his hands or invested by him for the benefit of any party to the proceedings :

Provided that no matter other than a matter relating to the actual payment to a workman or the distribution among dependants of a lump sum shall be transferred for disposal under this sub-section to a Commissioner in the same province save with the previous sanction of the Local Government or to a Commissioner in another province save with the previous sanction of the Governor General in Council, unless all the parties to the proceedings agree to the transfer.

(3) The Commissioner to whom any matter is so transferred shall, subject to rules made under this Act, inquire thereinto and, if the matter was transferred for report, return his report thereon or, if the matter was transferred for disposal, continue the proceedings as if they had originally commenced before him.

(4) On receipt of a report from a Commissioner to whom any matter has been transferred for report under sub-section (2), the Commissioner by whom it was referred shall decide the matter referred in conformity with such report.

Form of
application.

22. (1) No application for the settlement of any matter by a Commissioner shall be made unless and until some question has arisen between the parties in connection therewith which they have been unable to settle by agreement.

(2) Where any such question has arisen, the application may be made in such form and shall be accompanied by such fee, if any, as may be prescribed, and shall contain, in addition to any particulars which may be prescribed, the following particulars, namely :—

(a) a concise statement of the circumstances in which the application is made and the relief

relief or order which the applicant claims;

(b) in the case of a claim for compensation against an employer, the date of service of notice of the accident on the employer and, if such notice has not been served or has not been served in due time, the reason for such omission;

(c) the names and addresses of the parties; and

(d) a concise statement of the matters on which agreement has and on those on which agreement has not been come to.

(3) If the applicant is illiterate or for any other reason is unable to furnish the required information in writing, the application shall, if the applicant so desires, be prepared under the direction of the Commissioner.

V of 1908.

23. The Commissioner shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purpose of taking evidence on oath (which such Commissioner is hereby empowered to impose) and of enforcing the attendance of witnesses and compelling the production of documents and material objects. Powers and procedure of Commissioners.

24. Any appearance, application or act required to be made or done by any person before or to a Commissioner (other than an appearance of a party which is required for the purpose of his examination as a witness) may be made or done on behalf of such person by a legal practitioner or other person authorised in writing by such person. Appearance of parties.

25. The Commissioner shall make a brief memorandum of the substance of the evidence of every witness as the examination of the witness proceeds, and such memorandum shall be written and signed by the Commissioner with his own hand and shall form part of the record: Method of recording evidence.

Provided that, if the Commissioner is prevented from making such memorandum, he shall record the reason

reason of his inability to do so and shall cause such memorandum to be made in writing from his dictation and shall sign the same, and such memorandum shall form part of the record :

Provided, further, that the evidence of any medical witness shall be taken down as nearly as may be word for word.

Costs.

26. All costs incidental to any proceedings before a Commissioner shall, subject to rules made under this Act, be in the discretion of the Commissioner.

Power to submit cases.

27. A Commissioner may, if he thinks fit, submit any question of law for the decision of the High Court and, if he does so, shall decide the question in conformity with such decision.

Registration of agreements.

28. (1) Where the amount of any lump sum payable as compensation has been settled by agreement, whether by way of redemption of a half-monthly payment or otherwise, or where any compensation has been so settled as being payable to a person under a legal disability or to a dependant, a memorandum thereof shall be sent by the employer to the Commissioner, who shall, on being satisfied as to its genuineness, record the memorandum in a register in the prescribed manner :

Provided that—

(a) no such memorandum shall be recorded before seven days after communication by the Commissioner of notice to the parties concerned;

(b) where a workman seeks to record a memorandum of agreement between his employer and himself for the payment of compensation and the employer proves that the workman has, in fact, returned to work and is earning the same wages as he did before the accident and objects to the recording of such memorandum, the memorandum shall only be recorded, if

at

at all, on such terms as the Commissioner thinks just in the circumstances;

(c) the Commissioner may at any time rectify the register;

(d) where it appears to the Commissioner that an agreement as to the payment of a lump sum whether by way of redemption of a half-monthly payment or otherwise, or an agreement as to the amount of compensation payable to a person under any legal disability or to any dependant, ought not to be registered by reason of the inadequacy of the sum or amount, or by reason of the agreement having been obtained by fraud or undue influence or other improper means, he may refuse to record the memorandum of the agreement or may make such order, including an order as to any sum already paid under the agreement, as he thinks just in the circumstances.

(2) An agreement for the payment of compensation which has been registered under sub-section (1) shall be enforceable under this Act notwithstanding anything contained in the Indian Contract Act, 1872, or in any other law for the time being in force.

IX of 1872.

29. Where a memorandum of any agreement, the registration of which is required by section 28, is not sent to the Commissioner as required by that section, the employer shall be liable to pay the full amount of compensation which he is liable to pay under the provisions of this Act, and notwithstanding anything contained in the proviso to sub-section (1) of section 4, shall not, unless the Commissioner otherwise directs, be entitled to deduct more than half of any amount paid to the workman by way of compensation whether under the agreement or otherwise.

Effect of failure to register agreement.

Appeals.

30. (1) An appeal shall lie to the High Court from the following orders of a Commissioner, namely:—

- (a) an order awarding as compensation a lump sum whether by way of redemption of a half-monthly payment or otherwise or disallowing a claim in full or in part for a lump sum;
- (b) an order refusing to allow redemption of a half-monthly payment;
- (c) an order providing for the distribution of compensation among the dependants of a deceased workman, or disallowing any claim of a person alleging himself to be such dependant;
- (d) an order allowing or disallowing any claim for the amount of an indemnity under the provisions of sub-section (2) of section 12; or
- (e) an order refusing to register a memorandum of agreement or registering the same or providing for the registration of the same subject to conditions:

Provided that no appeal shall lie against any order unless a substantial question of law is involved in the appeal and, in the case of an order other than an order such as is referred to in clause (b), unless the amount in dispute in the appeal is not less than three hundred rupees:

Provided, further, that no appeal shall lie in any case in which the parties have agreed to abide by the decision of the Commissioner, or in which the order of the Commissioner gives effect to an agreement come to by the parties.

(2) The period of limitation for an appeal under this section shall be sixty days.

(3) The provisions of section 5 of the Indian Limitation Act, 1908, shall be applicable to appeals under this section. IX of 1908.

31. The

31. The Commissioner may recover as an Recovery.
arrears of land-revenue any amount payable by any
person under this Act, whether under an agreement
for the payment of compensation or otherwise, and
the Commissioner shall be deemed to be a public
officer within the meaning of section 5 of the Reve-
nue Recovery Act, 1890.

1 of 1890.

CHAPTER IV.

RULES.

32. (1) The Governor General in Council may Power of the Governor General in Council to make rules.
make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the
generality of the foregoing power, such rules may
provide for all or any of the following matters,
namely:—

- (a) for prescribing the intervals at which and
the conditions subject to which an
application for review may be made
under section 6 when not accompanied
by a medical certificate;
- (b) for prescribing the intervals at which and
the conditions subject to which a work-
man may be required to submit himself
for medical examination under sub-
section (1) of section 11;
- (c) for prescribing the procedure to be followed
by Commissioners in the disposal of
cases under this Act and by the parties
in such cases;
- (d) for regulating the transfer of matters and
cases from one Commissioner to another
and the transfer of money in such cases;
- (e) for prescribing the manner in which
money in the hands of a Commissioner
may be invested for the benefit of
dependants of a deceased workman and
for the transfer of money so invested
from one Commissioner to another:

(f) for

- (f) for the representation in proceedings before Commissioners of parties who are minors or are unable to make an appearance;
- (g) for prescribing the form and manner in which memoranda of agreements shall be presented and registered;
- (h) for the withholding by Commissioners, whether in whole or in part, of half-monthly payments pending decision on applications for review of the same; and
- (i) for any other matter which is not, in the opinion of the Governor General in Council, a matter of merely local or provincial importance.

Power of
Local
Government
to make
rules.

33. The Local Government may, subject to the control of the Governor General in Council, make rules to provide for all or any of the following matters, namely:—

- (a) for regulating the scales of costs which may be allowed in proceedings under this Act;
- (b) for prescribing and determining the amount of the fees payable in respect of any proceedings before a Commissioner under this Act;
- (c) for the maintenance by Commissioners of registers and records of proceedings before them; and
- (d) generally for carrying out the provisions of this Act in respect of any matter which is, in the opinion of the Local Government, a matter of merely local importance in the province.

Publication
of rules.

34. (1) The power to make rules conferred by sections 32 and 33 shall be subject to the condition of the rules being made after previous publication.

(2) The date to be specified in accordance with clause (3) of section 23 of the General Clauses Act, 1897,

OF 1923.] *Workmen's Compensation.*

X of 1897.

1897, as that after which a draft of rules proposed to be made under section 32 or section 33 will be taken into consideration, shall not be less than three months from the date on which the draft of the proposed rules was published for general information.

(3) Rules so made shall be published in the Gazette of India or the local official Gazette, as the case may be, and on such publication, shall have effect as if enacted in this Act.

SCHEDULE I.

[See sections 2 (1) and 4.]

List of injuries deemed to result in permanent partial disablement.

Injury.	Percentage of loss of earning capacity.
Loss of right arm above or at the elbow	70
Loss of left arm above or at the elbow	60
Loss of right arm below the elbow	60
Loss of leg at or above the knee	60
Loss of left arm below the elbow	50
Loss of leg below the knee	50
Permanent total loss of hearing	50
Loss of one eye	30
Loss of thumb	25
Loss of all toes of one foot	20
Loss of one phalanx of thumb	10
Loss of index finger	10
Loss of great toe	10
Loss of any finger other than index finger	5

NOTE.—Complete and permanent loss of the use of any limb or member referred to in this Schedule shall be deemed to be the equivalent of the loss of that limb or member.

SCHEDULE II.

SCHEDULE II.

[See section 2 (1) (n).]

List of persons who, subject to the provisions of section 2 (1) (n), are included in the definition of workmen.

The following persons are workmen within the meaning of section 2 (1) (n) and subject to the provisions of that section, that is to say, any person who is—

- (i) employed in connection with the service of a tramway as defined in section 3 of the Indian Tramways Act, 1886; or XI of 1886.
- (ii) employed within the meaning of clause (2) of section 2 of the Indian Factories Act, 1911, in any place which is a factory within the meaning of sub-clause (a) of clause (3) of that section; or XII of 1911.
- (iii) employed within the meaning of clause (d) of section 3 of the Indian Mines Act, 1923, in any mine which is subject to the operation of that Act; or IV of 1923.
- (iv) employed as the master of a registered ship or as a seaman; or
- (v) employed for the purpose of loading, unloading or coaling any ship at any pier, jetty, landing place, wharf, quay, dock, warehouse or shed, on, in or at which steam, water or other mechanical power or electrical power is used; or
- (vi) employed in the construction, repair or demolition of—
 - (a) a building which is designed to be, is, or has been more than one storey in height above ground level, or
 - (b) a building which is used, has been used, or is designed to be used, for industrial or commercial purposes and is, has been or is designed to be, not less than twenty feet in height measured from ground level to apex of the roof, or
 - (c) a bridge which is, has been or is designed to be more than fifty feet in length; or
- (vii) employed in setting up, repairing, maintaining, or taking down any telegraph or telephone line or post or any overhead electric cable; or
- (viii) employed in the construction, inspection or upkeep of any underground sewer; or
- (ix) employed in the service of any fire brigade.

SCHEDULE III.

SCHEDULE III.

(See section 3.)

List of occupational diseases.

Occupational disease.	Employment.
Lead poisoning or its sequelae . . .	Any process involving the use of lead or its preparations or compounds.
Phosphorus poisoning or its sequelae	Any process involving the use of phosphorus or its preparations or compounds.

SCHEDULE IV.

(See section 5.)

Table of assumed wages.

Limits.						Assumed Wages.
Where the sum arrived at by a calculation under clause (a) or clause (b) of section 5 is—						
		Rs.	A.	P.		Rs. A. P.
less than . . .		9	0	0		8 0 0
not less than . . .		9	0	0	but less than 11	10 0 0
„ . . .		11	0	0	ditto	12 0 0
„ . . .		13	0	0	ditto	15 4 0
„ . . .		17	8	0	ditto	20 0 0
„ . . .		22	8	0	ditto	25 0 0
„ . . .		27	8	0	ditto	30 0 0
„ . . .		32	8	0	ditto	35 0 0
„ . . .		37	8	0	ditto	40 0 0
„ . . .		42	8	0	ditto	46 4 0
„ . . .		50	0	0	ditto	55 0 0
„ . . .		60	0	0	ditto	65 0 0
„ . . .		70	0	0	ditto	75 0 0
„ . . .		80	0	0	... ..	83 5 4

CALCUTTA
SUPERINTENDENT GOVERNMENT PRINTING, INDIA
8, HASTINGS STREET

ACT NO. IX OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 5th March, 1923.)

An Act further to amend the Indian Factories Act, 1911.

XII of 1911. **W**HEREAS it is expedient further to amend the Indian Factories Act, 1911; It is hereby enacted as follows:—

1. This Act may be called the Indian Factories Short t
(Amendment) Act, 1923.

XII of 1911. 2. To section 22 of the Indian Factories Act, Additio
1911 (hereinafter referred to as the said Act), the new sul
following sub-section shall be added, namely:— tion to
22, Act
of 1911.

“(2) where, in accordance with the provisions of sub-section (1), any person is employed on a Sunday in consequence of his having had a holiday on one of the three days preceding that Sunday, that Sunday shall, for the purpose of calculating the weekly hours of work of such person, be deemed to be included in the preceding week.”

3. In section 37 of the said Act, for clause (i) of Amend
sub-section (2) the following clause shall be substi- of secti
tuted, namely:— Act XI
1911.

“(j) the parts of the machinery and electrical fittings to be kept fenced in accordance with section 18, sub-section (1), clause (c), and the provisions to be made for the protection from danger of persons employed in attending to the machinery, electrical fittings or boilers.”

4. In clause (g) of section 41 of the said Act, for Amend
the figures and letter “19B” the figures and letter of secti
“19A” shall be substituted. Act XI
1911.

5. Sub-section (2) of section 50 of the said Act Amend
shall be omitted. of secti
Act XI
1911.

ACT No. X OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
5th March, 1923.)

An Act to consolidate the law relating to the
Government Paper Currency.

WHEREAS it is expedient to consolidate the law
relating to the Government Paper Currency;
It is hereby enacted as follows :—

Preliminary.

1. (1) This Act may be called the Indian Paper Short title
and extent.
Currency Act, 1923.

(2) It extends to the whole of British India,
inclusive of British Baluchistan and the Santhal
Parganas.

2. In this Act, “ universal currency note ” Definition.
means—

(a) a note of the denominational value of
one rupee, two and a half rupees, five
rupees, ten rupees, fifty rupees, or
one hundred rupees, or

(b) a note of any other denominational value
which the Governor General in Coun-
cil may, by notification in the Gazette
of India, specify in this behalf.

The Currency Department.

3. There shall continue to be a Department of
the public service, to be called the Currency Depart-
ment, whose function shall be the issue of promis-
sory notes of the Government of India, to be called
currency notes, payable to bearer on demand, and
of

Currency De-
partment for
issue of cur-
rency notes.

of such denominational values as the Governor General in Council may direct.

Controller of
the Currency

4. At the head of the Department there shall be an officer to be called the Controller of the Currency (hereinafter referred to as the Controller).

Power to es-
tablish circles
of issue,
offices of
issue, and
currency agen-
cies.

5. The Governor General in Council may, by notification in the Gazette of India,—

- (a) establish districts, to be called circles of issue, seven of which circles shall include the towns of Calcutta, Madras, Bombay, Rangoon, Lahore, Cawnpore and Karachi, respectively;
- (b) appoint in each circle some one town to be the place of issue of currency notes, as hereinafter provided;
- (c) establish in each such town an office or offices of issue; and
- (d) establish in any town situate in any circle an office, to be called a currency agency.

Deputy Con-
trollers of the
Currency and
Currency
Agents.

6. For each circle of issue there shall be an officer in charge to be called the Deputy Controller of the Currency, and for each Currency Agency an officer to be called the Currency Agent.

Subordina-
tion of
Officers.

7. For the purposes of this Act—

- (a) Deputy Controllers of the Currency shall be subordinate to the Controller; and
- (b) the Currency Agent at any town shall be subordinate to the Deputy Controller of the Currency for the circle of issue in which that town is situate.

Appointment
of Officers.

8. All officers under this Act shall be appointed by the Governor General in Council.

Supply and Issue of Currency Notes.

Controller
and Deputy
Controllers to
provide
and distri-
bute curren-
cy notes.

9. (1) The Controller shall provide currency notes of the denominational values prescribed under this Act, and shall supply the Deputy Controllers with such notes as they need for the purposes of this Act.

(2) The

(2) The Deputy Controllers shall supply the Currency Agents subordinate to them, respectively, with such notes as those Agents need for the purposes of this Act.

(3) Every such note, other than a universal currency note, shall bear upon it the name of the town from which it is issued.

10. The name of the Controller or one of the Deputy Controllers, or of some other person authorised by the Controller or by one of the Deputy Controllers, to sign currency notes, shall be subscribed to every such note, and may be impressed thereon by machinery, and, when so impressed, shall be deemed to be a valid signature.

Signatures
to currency
notes

11. The officers in charge of circles of issue shall, in their respective circles, on the demand of any person, issue, from the office or offices of issue established in their respective circles, currency notes of the denominational values prescribed under this Act, in exchange for the amount thereof—

Issue of cur-
rency notes
for silver
or gold
coin by offi-
cers in charge
of circles.

III of 1906.

(a) in rupees or silver half-rupees or in gold coin which is legal tender under the Indian Coinage Act, 1906, or

(b) in rupees made and declared to be a legal tender under the provisions of the Native Coinage Act, 1876.

IX of 1876.

12. Any Currency Agent to whom currency notes have been supplied under section 9 may, if he thinks fit, on the demand of any person, issue from his agency any such notes in exchange for the amount thereof in any coin specified in section 11.

Issue of cur-
rency notes
for silver or
gold coin by
Currency
Agents.

III of 1906.

13. The officers in charge of circles of issue shall, on the requisition of the Controller, issue to any Government Treasury currency notes in exchange for gold coin which is not legal tender under the Indian Coinage Act, 1906, or for gold bullion at the rate of one rupee for 11·30016 grains troy of fine gold.

Issue to
Government
Treasures of
currency notes
for gold coin
not legal ten-
der or gold
bullion.

Currency Notes where legal tender and where payable.

14. A universal currency note shall be a legal tender at any place in British India, and

Currency
notes where
legal tender.

any

any other currency note shall be a legal tender at any place within the circle from which the note was issued,

for the amount expressed in the note in payment or on account of—

- (a) any revenue or other claim, to the amount of one rupee or upwards, due to the Government of India, and
- (b) any sum of one rupee or upwards, due by the Government of India or by any body corporate or other person in British India :

Provided that no currency note shall be deemed to be a legal tender by the Government of India at any office of issue.

Currency
notes
where pay-
able.

15. A currency note shall be payable at the following offices of issue, namely :—

- (a) a universal currency note at any office of issue;
- (b) a currency note other than a universal currency note at any office of issue in the town from which it was issued :

Provided that any such note issued before the 18th day of February, 1910, shall also be payable,—

- (i) in the case of a note issued from the office at Cawnpore or Lahore, at any office of issue in Calcutta, and
- (ii) in the case of a note issued from the office at Karachi, at any office of issue in Bombay.

Currency
notes issued
from curren-
cy agencies
where deemed
to be issued.

16. For the purposes of sections 14 and 15, currency notes issued from any currency agency shall be deemed to have been issued from the town appointed under section 5 to be the place of issue in the circle of issue in which that agency is established.

Provision in
case of closure
of office.

17. Where an office of issue is closed, the Governor General in Council shall, by notification in the Gazette of India, direct that, with effect from
the

the date of the closing of such office, all currency notes issued therefrom shall, for the purposes of sections 14 and 15, be deemed to have been issued from such other office as may be specified in such notification.

Reserve.

18. (1) The provisions contained in this section shall not come into operation until such day (hereinafter referred to as the appointed day) as the Governor General in Council may direct in this behalf. Paper Cur-
rency
Reserve.

(2) A Reserve shall be maintained for the satisfaction and discharge of the currency notes in circulation and all such notes shall be deemed to have been issued on the credit of the revenues of India as well as on that of the Reserve.

(3) The Reserve shall consist of two parts, namely:—

(a) the metallic Reserve, and

(b) the securities Reserve.

(4) The metallic Reserve shall consist of the total amount represented by the sovereigns, half-sovereigns, rupees, silver half-rupees, and gold and silver bullion for the time being held on that account by the Secretary of State for India in Council and by the Governor General in Council:

Provided that no amount of gold coin and bullion held by the Secretary of State in the United Kingdom in excess of fifty millions of rupees in value reckoned at the rate hereinafter provided for shall be included in the metallic Reserve.

(5) The securities Reserve shall consist of the securities which are for the time being held on that account by the Secretary of State for India in Council and on behalf of the Governor General in Council:

Provided

Provided that—

- (a) no securities held by the Secretary of State for India in Council, other than securities of the United Kingdom the date of maturity of which is not more than one year from the date of their purchase, shall be included in the securities Reserve; and
- (b) the securities held on behalf of the Governor General in Council shall be securities of the Government of India and shall not exceed in amount two hundred millions of rupees, of which an amount of not more than one hundred and twenty millions of rupees may be securities created by the Government of India and issued to the Controller (such securities being hereinafter referred to as created securities).

(6) For the purposes of this section the expression “currency notes in circulation” means the whole amount of currency notes at any time in circulation :

Provided that currency notes which have not been presented for payment, in the case of notes of the denominational value of fifty or one hundred rupees, within forty years, and in the case of notes of any denominational value exceeding one hundred rupees, within one hundred years, from the first day of April following the date of their issue, shall be deemed to be not in circulation :

Provided, further, that all such notes shall be deemed to have been issued on the credit of the revenues of India and shall, if presented for payment, be paid from such revenues.

(7) Save as hereinafter provided in section 20, the amount of currency notes in circulation at any time shall not exceed the amount of the metallic Reserve together with the amount of the securities Reserve :

Provided

Provided that it shall not be lawful for the Governor General in Council to direct the issue of currency notes, if or to the extent that such issue would have the effect of raising the amount of notes in circulation to an amount in excess of twice the amount for the time being of the metallic Reserve.

(8) For the purpose of determining—

- (a) the amount of the metallic Reserve, gold bullion shall be reckoned at the rate of one rupee for 11·30016 grains troy of fine gold, and silver bullion at the price in rupees at which it was purchased,
- (b) the amount of the securities Reserve, purchased securities shall be reckoned at the price at which they were purchased and created securities at the market price of similar securities on the date of their issue.

(9) The securities of the Government of India in the Reserve shall be held by the Controller and the Master of the Mint at Calcutta or of such other Mint as the Governor General in Council may direct in this behalf, in trust for the Secretary of State for India in Council.

19. (1) As soon as conveniently may be after the relation of the amount of the currency notes in circulation to the amount of the Reserve has been brought into conformity with sub-sections (2) to (8) of section 18 and the metallic Reserve is not less than half the amount of currency notes in circulation, the Governor General in Council shall fix the appointed day. Temporary provisions.

(2) The provisions contained in this section shall be in force until the appointed day, but shall, as from that day, be deemed to be repealed.

(3) Save as hereinafter provided in section 20, the whole amount of currency notes at any time in circulation shall not exceed the total amount represented

represented by the sovereigns, half-sovereigns, rupees, silver half-rupees and gold bullion, and the sum expended in the purchase of the silver bullion and securities, which are for the time being held by the Secretary of State for India in Council and by the Governor General in Council as a reserve to provide for the satisfaction and discharge of the said notes, and the said notes shall be deemed to have been issued on the credit of the revenues of India as well as on the security of the said coin, bullion and securities :

Provided that, for the purposes of this sub-section, currency notes which have not been presented for payment, in the case of notes of the denominational value of fifty or one hundred rupees within forty years, and, in the case of notes of any denominational value exceeding one hundred rupees, within one hundred years, from the first day of April following the date of their issue, shall be deemed not to be in circulation :

Provided, further, that all notes which are declared under the first proviso to this sub-section not to be in circulation shall be deemed to have been issued on the credit of the revenues of India and shall, if subsequently presented for payment, be paid from such revenues.

(4) The securities mentioned in sub-section (3) shall be securities of the United Kingdom of Great Britain and Ireland or of the Government of India, or securities issued by the Secretary of State for India in Council under the authority of Act of Parliament and charged on the revenues of India, and the value of them at the price at which they are purchased shall not exceed eight hundred and fifty millions of rupees.

(5) If the Secretary of State for India in Council consents to hold in gold coin or bullion or in silver bullion or in securities of the kinds mentioned in sub-section (4), the equivalent in value to notes issued in India as a reserve to secure the payment of such notes, the Governor General in Council may from time to time direct that currency notes shall

be

Issue of currency notes for certain gold coin or gold or silver bullion or securities held by Secretary of State.

be issued to an amount equal to the value of the coin, bullion and securities so held by the Secretary of State for India in Council.

(6) Notwithstanding anything to the contrary in this Act, any securities created by the Government of India and issued to the Controller shall, for the purposes of this Act, be deemed to be securities purchased by the Governor General in Council, and the market price, on the day such securities were so issued, of similar securities shall be deemed to be the price at which the securities so created were purchased, and all references to securities so purchased, wherever occurring in this Act, shall be deemed also to refer to securities so created, and all references to sums expended in such purchases or to prices paid therefor shall be deemed, in the case of securities so created, to refer to such prices, and this Act shall be construed accordingly.

(7) As long as the value of securities created by the Government of India and issued to the Controller and deemed in accordance with the provisions of the foregoing sub-section to be securities purchased by the Governor General in Council exceeds one hundred and twenty millions of rupees, all interest derived from the securities in the Reserve shall, with effect from the first day of April, 1923, be applied in reduction of such excess holding of securities and the Auditor-General shall in every year grant a certificate of the amount of such interest and shall also certify whether or not it has been so applied. For the purposes of this sub-section securities so created and issued shall be deemed to carry interest at the same rate as other similar securities.

(8) The securities purchased by the Governor General in Council shall be securities of the Government of India, and shall be held by the Controller and the Master of the Mint at Calcutta or of such other Mint as the Governor General in Council may direct in this behalf, in trust for the Secretary of State for India in Council.

Power to
issue currency
notes against
bills of ex-
change.

20. Notwithstanding anything to the contrary in section 18 or section 19, the Governor General in Council may authorise the Controller to issue currency notes to an amount in all not exceeding fifty millions of rupees against bills of exchange which will mature within ninety days from the date of such issue and satisfy such other conditions as the Governor General in Council may, by general or special order, prescribe. Currency notes so issued shall be in addition to those against which the Reserve is held and shall be deemed to have been issued on the credit of such bills and of the revenues of India and shall, when presented, be paid from such revenues.

Power to dis-
pose of coin
and bullion in
reserve.

21. Subject to the provisions of sections 18 and 19, the Governor General in Council may at any time, if he thinks it expedient, convert any of the coin or bullion for the time being held by him as a part of the reserve into coin of any of the kinds mentioned in section 11 or into gold or silver bullion.

Coin or
bullion not in
India when
deemed to be
part of the
reserve.

22. Notwithstanding anything to the contrary in this Act, any coin or bullion which is held by or on behalf of the Secretary of State for India in Council in the United Kingdom or under the control of the Government of any part of His Majesty's Dominions for the purpose of coinage for, or transmission to, the Governor General in Council and any coin or bullion which is in course of transmission from the Secretary of State for India in Council or the Government of any part of His Majesty's Dominions to the Governor General in Council and any coin or bullion which is in the course of transmission from the Governor General in Council to the Secretary of State for India in Council or the Government of any part of His Majesty's Dominions shall be deemed, during the period such coin or bullion is so held or is so in course of transmission, to be part of the reserve referred to in sections 18 and 19.

Power to sell
and replace
Indian securi-
ties.

23. (1) The Controller may, at any time, when ordered so to do by the Governor General in Council, sell and dispose of any of the securities held

under sub-section (9) of section 18 or sub-section (8) of section 19.

(2) For the purpose of effecting such sales, the Master of the Mint at Calcutta or of such other Mint as aforesaid shall, on a request in writing from the Controller at all times sign and endorse the securities, and the Controller, if so directed by the Governor General in Council, may purchase securities of the Government of India to replace such sales.

24. An account showing the amount of the interest accruing on the securities held as part of the reserve under this Act and the expenses and charges incidental thereto, shall be rendered annually by the Controller to the Governor General in Council, and published annually in the Gazette of India.

Account of interest on securities.

Private Bills payable to Bearer on Demand.

25. No person in British India shall draw, accept, make or issue any bill of exchange, hundi, promissory note or engagement for the payment of money payable to bearer on demand, or borrow, owe or take up any sum or sums of money on the bills, hundis or notes payable to bearer on demand, of any such person :

Prohibition of issue of private bills or notes payable to bearer on demand

Provided that cheques or drafts, payable to bearer on demand or otherwise, may be drawn on bankers, shroffs or agents by their customers or constituents, in respect of deposits of money in the hands of those bankers, shroffs or agents and held by them at the credit and disposal of the persons drawing such cheques or drafts.

26. (1) Any person contravening the provisions of section 25 shall, on conviction by a Presidency Magistrate or a Magistrate of the first class, be punishable with a fine equal to the amount of the bill, hundi, note or engagement in respect whereof the offence is committed.

Penalty for issuing such bills or notes and institution of prosecutions.

(2) Every prosecution under this section shall be instituted by the officer in charge of the circle of issue

issue in which the bill, hundi, note or engagement is drawn, accepted, made or issued.

Supplementary Provisions.

Abstracts of
accounts.

27. An abstract of the accounts of the Currency Department, showing—

- (a) the whole amount of currency notes in circulation;
- (b) the amount of coin and bullion reserved, distinguishing gold from silver, and showing separately the amount of coin or bullion held by or on behalf of the Secretary of State for India in Council, or in transit from or to India, or in the custody of the Mint Master during coinage;
- (c) the nominal value of, and the price paid for, the securities held as part of the reserve, showing separately those held by the Secretary of State for India in Council and those held in India under sub-section (9) of section 18 or sub-section (8) of section 19; and
- (d) the amount of currency notes issued against bills of exchange under the provisions of section 20;

shall be made up four times in each month by the Controller, and published, as soon as may be, in the Gazette of India.

Provision as
to lost,
mutilated
and imper-
fect notes.

28. Notwithstanding anything contained in any enactment or rule of law to the contrary, no person shall as of right be entitled to recover from the Government of India the value of any lost, mutilated or imperfect currency note:

Provided that the Governor General in Council may by rule prescribe the circumstances, conditions and limitations under which the value of such notes may be refunded as of grace.

29. (1) The

29. (1) The Governor General in Council may ^{Power to} make rules to carry out the purposes and objects of ^{make rules.} this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) fix the denominational values for which currency notes shall be issued;
- (b) provide for the alteration of the limits of any of the circles of issue;
- (c) declare the places at which currency notes shall be issued; and
- (d) prescribe the circumstances in, and the conditions and limitations subject to, which the value of lost, mutilated or imperfect currency notes may be refunded at the office of issue.

(3) Every such rule shall be published in the Gazette of India, and, on such publication, shall have effect as if enacted in this Act.

30. The enactments mentioned in the Schedule ^{Repeals.} are hereby repealed to the extent specified in the last column thereof :

41 of 1910.

Provided that all securities purchased and notes issued under the Indian Paper Currency Act, 1910, and all securities and notes which, under section 30 of that Act, are to be deemed to have been purchased or issued thereunder shall, if undisposed of or in circulation at the commencement of this Act, be deemed to have been respectively purchased and issued under this Act :

Provided, further, that all currency notes, which, under the said section 30, are to be deemed to have been issued from the office of issue in the town of Cawnpore, shall still be deemed to have been issued from that office.

THE SCHEDULE.

Indian Paper Currency. [ACT X OF 1923.]

THE SCHEDULE.

[ENACTMENTS REPEALED.]

(See section 30.)

Year.	No.	Short title.	Extent of repeal.
1910	II	The Indian Paper Currency Act, 1910.	So much as has not been repealed.
1911	VII	The Indian Paper Currency (Amendment) Act, 1911.	The whole.
1914	X	The Repealing and Amending Act, 1914.	So much of the Second Schedule as relates to the Indian Paper Currency Act, 1910.
1917	XIX	The Indian Paper Currency (Amendment) Act, 1917.	So much as has not been repealed.
1920	XLV	The Indian Paper Currency (Amendment) Act, 1920.	The whole.
1922	XII	The Indian Finance Act, 1922.	Section 6.

ACT No. XI OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the
5th March, 1923.)*

An Act to amend certain enactments and to
repeal certain other enactments.

WHEREAS it is expedient that certain amendments should be made in the enactments specified in the first Schedule;

AND WHEREAS it is also expedient that certain enactments specified in the Second Schedule which are spent or have otherwise become unnecessary, or have ceased to be in force otherwise than by express specific repeal, should be expressly and specifically repealed;

It is hereby enacted as follows :—

1. This Act may be called the Repealing and Amending Act, 1923. Short title.

2. The enactments specified in the First Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof. Amendment of certain enactments.

3. The enactments specified in the Second Schedule are hereby repealed to the extent mentioned in the fourth column thereof. Repeal of certain enactments.

4. The repeal by this Act of any enactment shall not affect any Act or Regulation in which such enactment has been applied, incorporated or referred to; Savings.

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability,

liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognised or derived by, in or from any enactment hereby repealed;

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

THE FIRST SCHEDULE.

AMENDMENTS.

(See section 2.)

Year.	Number.	Short title.	Amendments.
1867	XXV	The Press and Registration of Books Act, 1867.	In section 17, for the words "the last foregoing section" the word and figures "section 16" shall be substituted. In section 21, before the words "the Local Government" the words "the Governor General in Council or" and before the words "the local Gazette" the words "the Gazette of India or" shall be inserted and after the words "local Gazette" the words "as the case may be" shall be inserted.
1869	IV	The Indian Divorce Act, 1869.	(1) In section 3, clause (1), for the words "Chief Court of Lower Burma" the words "High Court of Judicature at Rangoon" shall be substituted. (2) In section 3, clause (2), for the word "Divisional" the word "District" shall be substituted.

THE FIRST SCHEDULE—*contd.*

AMENDMENTS.

(See section 2.)

Year.	Number.	Short title.	Amendments.
1870	VII	The Court-fees Act, 1870	In Article 14, Schedule I, for the words "Chief Court of Lower Burma" the words "High Court of Judicature at Rangoon" shall be substituted.
1877	I	The Specific Relief Act, 1877.	In section 45, for the words "and Bombay" the words "Bombay and Rangoon" shall be substituted.
1890	IX	The Indian Railways Act, 1890.	In sub section (5) of section 59, for the words and figures "a person enrolled as a volunteer under the Indian Volunteers Act, 1869" the words and figures "a member of the Indian Territorial Force or of the Auxiliary Force, India" shall be substituted.
1891	XVI	The Colonial Courts of Admiralty (India) Act, 1891.	In section 2, clause (4), for the words "Chief Court of Lower Burma" the words "High Court of Judicature at Rangoon" shall be substituted.
1897	X	The General Clauses Act, 1897.	After section 30, the following section shall be inserted, namely :— "30A. In this Act the expression "Act of the Governor General" wherever it occurs, except in section 5, shall be deemed to include an Act made by the Governor General under section 67B of the Government of India Act."
1898	V	The Code of Criminal Procedure, 1898.	In section 4, sub-section (1), clause (j), the word "and" where it occurs between the words "Patna" and "Lahore" shall be omitted and for the words "the Chief Court of Lower Burma" the words "and Rangoon" shall be substituted.

THE FIRST SCHEDULE—*contd.*

AMENDMENTS.

(See section 2.)

Year.	Number.	Short title.	Amendments.
1899	II	The Indian Stamp Act, 1899.	In section 57, sub-section (1), clause (d), for the words "Chief Court of Lower Burma" the words "High Court of Judicature at Rangoon" shall be substituted.
1899	IX	The Indian Arbitration Act, 1899.	In section 23, sub-section (1), for the words "Chief Court of Lower Burma", the words "High Court of Judicature at Rangoon" shall be substituted.
1908	IX	The Indian Limitation Act, 1908.	<p>In the second column of the First Schedule,—</p> <ol style="list-style-type: none"> (1) For each of the entries in Articles 4 and 5 the entry "six months" shall be substituted. (2) For each of the entries in Articles 7 to 31 the entry "one year" shall be substituted. (3) For each of the entries in Articles 33 to 36 the entry "Two years" shall be substituted. (4) For each of the entries in Articles 38 to 115 and for the entry in Article 181 the entry "Three years" shall be substituted. (5) For each of the entries in Articles 117 to 120 the entry "Six years" shall be substituted. (6) For each of the entries in Articles 122 to 144 the entry "Twelve years" shall be substituted. (7) For each of the entries in Articles 146 and 146A the entry "Thirty years" shall be substituted.

THE FIRST SCHEDULE—*contd.*

AMENDMENTS.

(See section 2.)

Year.	Number.	Short title.	Amendments.
			<p>(8) For each of the entries in Articles 148 and 149 the entry "Sixty years" shall be substituted.</p> <p>(9) For each of the entries in Articles 153, 154 and Articles 164 to 170 the entry "Thirty days" shall be substituted.</p> <p>(10) For the entry in Article 159 the entry "Ten days" shall be substituted.</p> <p>(11) For the entry in Article 161 the entry "Fifteen days" shall be substituted.</p> <p>(12) For the entry in Article 172 the entry "Sixty days" shall be substituted.</p> <p>(13) For each of the entries in Articles 174 and 177 the entry "Ninety days" shall be substituted.</p>
1911	II	The Indian Patents and Designs Act, 1911.	In sub-section (1) of section 78A, after the words "United Kingdom" where they first occur, the words "or his legal representative or assignee" shall be inserted.
1912	IV	The Indian Lunacy Act, 1912.	In sections 3 (4), 35 (2) and 91 (1) (c), for the word "confinement" the word "detention" shall be substituted. In sections 30 and 35 (2), for the word "confined" wherever it occurs the word "detained" shall be substituted.
1917	I	The Inland Steam Vessels Act, 1917.	In section 22A (1), for the words "as to such Government" the words "as such Government" shall be substituted.

THE FIRST SCHEDULE—*contd.*

AMENDMENTS.

(See section 2.)

Year.	Number.	Short title.	Amendments.
1918	XVI	The Provisional Collocation of Taxes Act, 1918.	<p>In section 2, for the words "a Member of the Executive Council of the Governor General" the words "any officer of Government acting on behalf of the Governor General in Council," shall be substituted.</p> <p>After section 3 the following section shall be inserted, namely :—</p> <p>"4. A declaration such as is referred to in Application of section 2 may be made in respect of any provision of a Bill, of a Bill of the nature described in that section which provides for the imposition or variation of any tax in the nature of customs or excise duties and where such declaration has been made in respect of any such provision this Act shall have effect as if references to the Bill were references to such provision."</p>
1920	XXVI	The Indian Limitation and Code of Civil Procedure (Amendment) Act, 1920.	<p>For section 2 the following section shall be substituted, namely :—</p> <p>"2. In the Third Division of the First Schedule to the Indian Limitation Act, 1908, in Articles 176, 177 and 179, for each of the entries in the second column the entry "ninety days" shall be substituted, and in Article 178, for the entry in the second column the entry "six months" shall be substituted.</p>
1921	IX	The Enemy Missions Act, 1921.	<p>In the Schedule, for the word "Budla" in the fourth column of the entries relating to the Assam Roman Catholic Mission Trust the words "Budla Beta" shall be substituted.</p>

OF 1923.] *Repealing and Amending.*

THE FIRST SCHEDULE—*concl'd.*

AMENDMENTS.

(See section 2.)

Year.	Number.	Short title.	Amendments.
1922	II	The Indian Factories (Amendment) Act, 1922.	In section 25(b), for the figures and letter "19B" the figures and letter "19A" shall be substituted.
<i>Regulation by the Governor General in Council.</i>			
1874	VIII	The Arakan Hills Civil Justice Regulation, 1874.	In section 76, for the words "Chief Court of British Burma" the words "High Court of Judicature at Rangoon" shall be substituted and for the words "Chief Court" where they elsewhere occur, the words "High Court" shall be substituted.

THE SECOND SCHEDULE.

REPEALS.

(See section 3.)

Year.	Number.	Short title.	Repeals.
<i>Acts of the Governor General in Council.</i>			
1866	XXVII ^r	The Indian Trustees Act, 1866.	In the definition of High Court in section 2, the words "and also the Chief Court of Lower Burma."
1866	XXVIII	The Trustees' and Mortgagees' Powers Act, 1866.	In the definition of High Court in section 1, the words "and includes the Chief Court of Lower Burma."
1870	VII	The Court-fees Act, 1870.	In Schedule I, Article 15.
1879	XVIII	The Legal Practitioners Act, 1879.	In section 41, sub-section (4), the words "except in the case of the Chief Court of Lower Burma."
1890	IX	The Indian Railways Act, 1890.	In section 26, sub-section (3), the words "or in the case of the Chief Court of Lower Burma, the Chief Judge."

THE SECOND SCHEDULE.

THE SECOND SCHEDULE—*contd.*

REPEALS.

(*See section 3.*)

Year.	Number.	Short title.	Repeals.
1898	V	The Code of Criminal Procedure, 1898.	(1) Clause (d) of section 4, sub-section (1) (2) In section 266, the words "the Chief Court of Lower Burma and". (3) In section 364, sub section (1), the words "or the Chief Court of Lower Burma." (4) In section 365, the words "and the Chief Court of Burma."
1900	VI	The Lower Burma Courts Act, 1900.	The whole Act.
1908	V	The Code of Civil Procedure, 1908.	(1) In section 122, the words "and the Chief Court of Lower Burma." (2) In section 123, sub-section (1), the words "and of the Chief Court." (3) In section 123, sub-section (2), the words "(in Burma.)"
1910	XIV	The Indian Emigration (Amendment) Act, 1910.	The whole Act.
1914	IV	The Decentralisation Act, 1914.	So much of Part I of the Schedule as relates to the Indian Emigration Act, 1908.
1914	X	The Repealing and Amending Act, 1914.	So much of the Second Schedule as relates to the Indian Emigration Act, 1908.
1918	XIX	The Indian Defence Force (Further Amendment) Act, 1918.	The whole Act.
1919	XXIV	The Indian Companies Restriction Repealing Act, 1919.	The whole Act.
1920	XXXVIII	The Devolution Act, 1920.	So much of Part I of the First Schedule as relates to the Indian Emigration Act, 1908.
1921	VI	The Indian Finance Act, 1921.	The whole Act.

OF 1923.] *Repealing and Amending.*

THE SECOND SCHEDULE—*concl'd.*

REPEALS.

(*See section 3.*)

Year.	Number.	Short title.	Repeals.
1922	XXIII	The Indian Transfer of Ships Restriction (Repealing) Act, 1922.	The whole Act.

Regulations by the Governor General in Council.

1892 ¹	V	The Upper Burma Criminal Justice Regulation, 1892.	In the 'Schedule,' section I and sub-sections (1) to (4) of section II and section X.
1896 ²	I	The Upper Burma Civil Courts Regulation, 1896.	The whole Regulation.

CALCUTTA
SUPERINTENDENT GOVERNMENT PRINTING, INDIA
8, HASTINGS STREET

ACT No. XII OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on
the 16th March, 1923.)

An Act further to amend the Code of Criminal Procedure, 1898, the European Vagrancy Act, 1874, the Indian Limitation Act, 1908, and the Central Provinces Courts Act, 1917, in order to provide for the removal of certain existing discriminations between European British subjects and Indians in criminal trials and proceedings.

V of 1898.

IX of 1874.

IX of 1908.

C. P. Act I
of 1917.

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898, the European Vagrancy Act, 1874, the Indian Limitation Act, 1908, and the Central Provinces Courts Act, 1917, in order to provide for the removal of certain existing discriminations between European British subjects and Indians in criminal trials and proceedings; It is hereby enacted as follows:—

1. (1) This Act may be called the Criminal Law Amendment Act, 1923.

Short title
and com-
mencement.

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

V of 1898.

2. (1) In sub-section (1) of section 4 of the Code of Criminal Procedure, 1898 (hereinafter referred to as the said Code), for clause (i) the following clause shall be substituted, namely:—

Amendment
of section 4,
Code of
Criminal
Procedure,
1898.

“(i) “European British Subject” means—

(i) any subject of His Majesty of European descent in the male line born, naturalised or domiciled in the British Islands or any Colony, or

European
British sub-
ject.

(ii) any

(ii) any subject of His Majesty who is the child or grand-child of any such person by legitimate descent."

(2) In clause (j) of the same sub-section, after the word "Rangoon" the words "and the Courts of the Judicial Commissioners of the Central Provinces, Oudh and Sind" shall be inserted.

Amendment
of section 22,
Code of
Criminal
Procedure,
1898.

3. In section 22 of the said Code, the words and brackets "(other than the presidency-towns)" shall be omitted, and for the words "European British subjects" the words "persons resident within British India and not being the subjects of any foreign State" shall be substituted.

Repeal of
sections 23
and 24, Code
of Criminal
Procedure,
1898.

4. Sections 23 and 24 of the said Code shall be omitted.

Amendment
of section 29,
Code of
Criminal
Procedure,
1898.

5. In sub-section (1) of section 29 of the said Code, for the words and figures "provisions of section 447" the words "other provisions of this Code" shall be substituted.

Insertion of
new section
29A in the
Code of
Criminal
Procedure,
1898.

6. After section 29 of the said Code the following section shall be inserted, namely:—

Trial of Euro-
pean British
subjects by
second and
third class
Magistrates.

"29A. No Magistrate of the second or third class shall inquire into or try any offence which is punishable otherwise than with fine not exceeding fifty rupees where the accused is an European British subject who claims to be tried as such."

Insertion of
new section
34A in the
Code of
Criminal
Procedure,
1898.

7. After section 34 of the said Code the following section shall be inserted, namely:—

Sentences
which Courts
and Magis-
trates may
pass upon
European
British sub-
jects.

"34A. Notwithstanding anything contained in sections 31, 32 and 34—

(a) no

(a) no Court of Session shall pass on any European British subject any sentence other than a sentence of death, penal servitude, or imprisonment with or without fine, or of fine, and

(b) no District Magistrate or other Magistrate of the first class shall pass on any European British subject any sentence other than imprisonment which may extend to two years, or fine which may extend to one thousand rupees, or both."

8. Section 111 of the said Code shall be omitted. Repeal of section 111, Code of Criminal Procedure, 1898.

9. In sub-section (1) of section 206 of the said Code, the words and figures " Subject to the provision of section 443 " shall be omitted. Amendment of section 206, Code of Criminal Procedure, 1898.

10. Section 214 of the said Code shall be omitted. Repeal of section 214, Code of Criminal Procedure, 1898.

11. In section 215 of the said Code, the words and figures " or section 214 " shall be omitted. Amendment of section 215, Code of Criminal Procedure, 1898.

12. In section 266 of the said Code, after the word " includes " the following words shall be inserted, namely:—" the Courts of the Judicial Commissioners of the Central Provinces, Oudh and Sind and " . Amendment of section 266, Code of Criminal Procedure, 1898.

13. In sub-section (2) of section 274 of the said Code, for the word " three " the word " five " shall be substituted; and to the same sub-section the following proviso shall be added, namely:— Amendment of section 274, Code of Criminal Procedure, 1898.

" Provided that, where any accused person is charged with an offence punishable with death, the jury shall consist of not less than seven persons and, if practicable, of nine persons."

14. For

Substitution
of new sec-
tion for sec-
tion 275, Code
of Criminal
Procedure,
1898.

14. For section 275 of the said Code the following section shall be substituted, namely :—

Jury for trial
of European
and Indian
British sub-
jects and
others.

“ 275. (1) In a trial by jury before the High Court or Court of Session of a person who has been found under the provisions of this Code to be an European or Indian British subject, a majority of the jury shall, if such person before the first juror is called and accepted so requires, consist, in the case of an European British subject, of persons who are Europeans or Americans and, in the case of an Indian British subject, of Indians.

(2) In any such trial by jury of a person who has been found under the provisions of this Code to be an European (other than an European British subject) or an American, a majority of the jury shall, if practicable and if such European or American before the first juror is called and accepted so requires, consist of persons who are Europeans or Americans.”

Amendment
of section
284,
Code of Cri-
minal Proce-
dure, 1898.

15. In section 284 of the said Code, for the words “ two or more shall be chosen, as the Judge thinks fit,” the words “ not less than three and, if practicable, four shall be chosen ” shall be substituted.

Insertion of
new section
284A in the
Code of Cri-
minal Proce-
dure, 1898.

16. After section 284 of the said Code the following section shall be inserted, namely :—

Assessors for
trial of Euro-
pean and
Indian
British
subjects and
others.

“ 284A. (1) In a trial with the aid of assessors of a person who has been found under the provisions of this Code to be an European or Indian British subject, if the European or Indian British subject accused, or, where there are several European British subjects accused or several Indian British subjects accused, all of them jointly, before the first assessor is chosen so require, all the assessors shall, in the case of European British subjects, be persons who

are

are Europeans or Americans or, in the case of Indian British subjects, be Indians.

(2) In a trial with the aid of assessors of a person who has been found under the provisions of this Code to be an European (other than an European British subject) or an American, all the assessors shall, if practicable and if such European or American before the first assessor is chosen so requires, be persons who are Europeans or Americans."

17. After section 285 the following heading and section shall be inserted, namely:—

Insertion of new section 285A in the Code of Criminal Procedure, 1898.

" DD.—*Joint trials.*

285A. In any case in which an European or American is accused jointly with a person not being an European or American, or an Indian British subject is accused jointly with a person not being an Indian, and such European, Indian British subject or American is committed for trial before a Court of Session, he and such other person may be tried together, but if he requires to be tried in accordance with the provisions of section 275 or section 284A and is so tried, and the other person accused requires to be tried separately, such other person shall be tried separately in accordance with the provisions of this Chapter."

Trial of European or Indian British subject or European or American jointly accused with others.

18. For section 312 of the said Code the following section shall be substituted, namely:—

Substitution of new section for section 312, Code of Criminal Procedure, 1898.

" 312. The High Court may prescribe the number of persons whose names shall be entered at any one time in the special jurors list :

Number of special jurors.

Provided that no definite number of Europeans or of Americans or of Indians shall be so prescribed."

19. (1) In sub-section

Amendment
of section
326,
Code of Cri-
minal Proce-
dure, 1898.

19. (1) In sub-section (1) of section 326 of the said Code, after the words “ for any such trial ” the following words shall be added, namely :—

“ and including, where any accused person is an European or an American, as many Europeans or Americans as may be required for the purpose of choosing jurors or assessors for the trial.”

(2) To the same section the following sub-sections shall be added, namely :—

“ (3) Where the accused requires and is entitled to be tried under the provisions of section 275, there shall be chosen by lot, in the manner prescribed by or under section 276, from the whole number of persons returned the jurors who are to constitute the jury until a jury containing the proper number of Europeans or Europeans and Americans or of Indians, as the case may be, has been obtained :

Provided that, in any case in which the proper number of Europeans or Americans cannot otherwise be obtained, the Court may, in its discretion for the purpose of constituting the jury, summon any person excluded from the list on the ground of his being exempted under section 320.

(4) Where, under the proviso to sub-section (3), the Court proposes to summon as a juror any person in His Majesty's Army, the provisions of section 317 shall apply in like manner as they apply for the purpose of the summoning of military jurors for a trial under section 316.”

Repeal of
section 336,
Code of Cri-
minal Proce-
dure, 1898.

20. Section 336 of the said Code shall be omitted.

Amendment
of section
390,
Code of Cri-
minal Proce-
dure, 1898.

21. In section 390 of the said Code, after the word “ shall ” the words “ subject to the provisions of section 391 ” shall be inserted.

22. In

22. In sub-section (1) of section 391 of the said Code, for the words “is sentenced to whipping in addition to imprisonment in a case which is subject to appeal” the following shall be substituted, namely :—

Amendment of section 391, Code of Criminal Procedure, 1898.

“(a) is sentenced to whipping only and furnishes bail to the satisfaction of the Court for his appearance at such time and place as the Court may direct, or

(b) is sentenced to whipping in addition to imprisonment.”

23. In section 408 of the said Code, clause (a) of the proviso shall be omitted.

Amendment of section 408, Code of Criminal Procedure, 1898.

24. In section 413 of the said Code, the words “or the District Magistrate or other Magistrate of the first class” and the words “or of whipping only” shall be omitted; and after the words “one month only or” the words “in which a Court of Session or District Magistrate or other Magistrate of the first class passes a sentence” shall be inserted.

Amendment of section 413, Code of Criminal Procedure, 1898.

25. In section 414 of the said Code, the words “of imprisonment not exceeding three months only, or” and the words “or of whipping only” shall be omitted.

Amendment of section 414, Code of Criminal Procedure, 1898.

26. Section 416 of the said Code shall be omitted.

Repeal of section 416, Code of Criminal Procedure, 1898.

27. For Chapter XXXIII including sections 443 to 463 of the said Code the following Chapter and sections shall be substituted, namely :—

Substitution of new Chapter for Chapter XXXIII, Code of Criminal Procedure, 1898.

“ CHAPTER XXXIII.

SPECIAL PROVISIONS RELATING TO CASES IN WHICH EUROPEAN AND INDIAN BRITISH SUBJECTS ARE CONCERNED.

443. (1) Where, in the course of the trial outside a presidency-town of any offence punishable with imprisonment,

Determination regarding applica-

bility of this
Chapter.

imprisonment, the accused person, at any time before he is committed for trial under section 213 or is asked to show cause under section 242 or enters on his defence under section 256, as the case may be, claims that the case ought to be tried under the provisions of this Chapter, the Magistrate inquiring into or trying the case, after making such inquiry as he thinks necessary, and after allowing the accused person reasonable time within which to adduce evidence in support of his claim, shall, if he is satisfied—

(a) that the complainant and the accused persons or any of them are respectively European and Indian British subjects or Indian and European British subjects, or

(b) that, in view of the connection with the case of both an European British subject and an Indian British subject, it is expedient for the ends of justice that the case should be tried under the provisions of this Chapter,

record a finding that the case is a case which ought to be tried under the provisions of this Chapter, or, if he is not so satisfied, record a finding that it is not such a case.

(2) Where the Magistrate rejects the claim, the person by whom it was made may appeal to the Sessions Judge, and the decision of the Sessions Judge thereon shall be final and shall not be questioned in any Court in appeal or revision.

(3) Where the Magistrate rejects the claim, he shall stay the proceedings until the expiration of the period allowed for the presentation of the appeal or, if an appeal is presented, until it has been decided.

Definition of
“complain-
ant.”

444. For the purposes of section 443, “complainant” means any person making a complaint or, in relation to any case of which cognizance is

taken

taken under clause (b) of section 190, sub-section (1), any person who has given information relating to the commission of the offence within the meaning of section 154:

IX of 1890

Provided that a Public Prosecutor, a public servant, a member, officer or servant of any local authority, a railway servant as defined in section 3 of the Indian Railways Act, 1890, or an officer or servant of any company, association or other body to which the Local Government may, by general or special order published in the local official Gazette, declare the provisions of this section to apply, shall not, by reason only of the fact that he has made a complaint of, or given information of, an offence in his capacity as such Public Prosecutor, public servant, railway servant, member, officer or servant, be deemed to be a complainant within the meaning of this section, nor shall a police-officer be so deemed by reason only of the fact that a report under section 173 relating to a case has been made by or through him.

445. (1) Where a Magistrate or a Sessions Judge decides under section 443 that a case ought to be tried under the provisions of this Chapter and the case is a summons-case, the Magistrate trying the same shall direct that the case be referred to a Bench of two Magistrates and shall send a copy of such order to the District Magistrate who shall forthwith provide for the constitution of a Bench of two Magistrates of the first class, of whom one shall be an European and the other an Indian, for the trial of the case.

(2) Where the Magistrates constituting the Bench by which a case is tried under this section differ in opinion, the case, together with their opinions thereon, shall be laid before the Sessions Judge, who may examine any party or recall and examine any witness who has already given evidence in the case, and may call for and take any further evidence, and shall thereafter pass such judgment, sentence

sentence or order in the case as he thinks fit and as is according to law.

(3) Any person convicted by a Bench under this section shall have the same right of appeal as if he had been convicted by a Magistrate of the first class, and any person convicted by a Sessions Judge under sub-section (2) shall have the same right of appeal to the High Court as if he had been convicted by the Sessions Judge at a trial held by the Sessions Judge under this Code.

(4) In any case in which it is impracticable to constitute a Bench in accordance with the provisions of sub-section (1) in any district, the District Magistrate shall transfer the case for trial by a like Bench to such other district as the High Court may, by general or special order, direct.

(5) Notwithstanding anything contained in this section, the Local Government may, by notification in the local official Gazette, direct that all summons-cases tried under the provisions of this Chapter in any district specified in the notification shall be tried as if they were warrant-cases in accordance with the provisions hereinafter in this Chapter laid down for the trial of warrant-cases.

Procedure in
warrant-
cases

446. (1) Where a Magistrate or a Sessions Judge decides under section 443 that a case ought to be tried under the provisions of this Chapter and the case is a warrant-case, the Magistrate inquiring into or trying the case shall, if he does not discharge the accused under section 209 or section 253, as the case may be, commit the case for trial to the Court of Session, whether the case is or is not exclusively triable by that Court.

(2) Where an accused is committed to the Court of Session under sub-section (1), the Court shall proceed to try the case as if the accused had required to be tried in accordance with the provisions of section 275, and the provisions of that section and the other provisions of Chapter XXIII,

SO

so far as they are applicable, shall apply accordingly :

Provided that where the trial before the Court of Session would in the ordinary course be with the aid of assessors and the accused, or all of them jointly, require to be tried in accordance with the provisions of section 284A, the trial shall be held with the aid of assessors all of whom shall, in the case of European British subjects, be persons who are Europeans or Americans or, in the case of Indian British subjects, be Indians.

447. If at any stage of an inquiry or trial under this Code it appears to the Magistrate that the case is or might be held to be a case which ought to be tried under the provisions of this Chapter, he shall forthwith inform the accused person of his rights under this Chapter.

Court to inform accused persons of their rights in certain cases.

448. For the purpose of the trial in Rangoon of any person under the provisions of this Chapter, references to the Sessions Judge shall be construed as references to the High Court of Judicature at Rangoon.

References to Sessions Judge to be construed as references to High Court in Rangoon.

449. (1) Where—

(a) a case is tried by jury in a High Court or Court of Session under the provisions of this Chapter, or

(b) a case which would otherwise have been tried under the provisions of this Chapter is under this Code committed to or transferred to the High Court and is tried by jury in the High Court, or

(c) a case is tried by jury in the High Court in a presidency-town and the High Court grants leave to appeal on the ground that the case would, if it had been tried outside a presidency-town, have been triable under the provisions of this Chapter,

Special provisions relating to appeal.

then, notwithstanding anything contained in section 418 or section 423, sub-section (2), or in the letters

patent

patent of any High Court, an appeal may lie to the High Court on a matter of fact as well as on a matter of law.

(2) Notwithstanding anything contained in the letters patent of any High Court, the Local Government may direct the Public Prosecutor to present an appeal to the High Court from an original order of acquittal passed by the High Court in any such trial as is referred to in sub-section (1).

(3) An appeal under sub-section (1) or sub-section (2) shall, where the High Court consists of more than one Judge, be heard by two Judges of the High Court."

Amendment
of section 478,
Code of Cri-
minal Proce-
dure, 1898.

28. In sub-section (2) of section 478 of the said Code, the words and figures " subject to the provisions of section 443 " shall be omitted; and, after the word and figures " Chapter XVIII " the words and figures " and of Chapter XXXIII in cases where that Chapter applies " shall be inserted.

Amendment
of section 480,
Code of Cri-
minal Proce-
dure, 1898.

29. In section 480 of the said Code,—

- (a) in sub-section (1), the words " whether he is a European British subject or not " shall be omitted; and
- (b) in sub-section (2), for the words and figures " section 443 or section 444 " the words and figures " section 29A or in Chapter XXXIII " shall be substituted.

Amendment
of section 491,
Code of Cri-
minal Proce-
dure, 1898.

30. (1) In sub-section (1) of section 491 of the said Code,—

- (a) for the words " Any of the High Courts of Judicature at Fort William, Madras and Bombay " the words " Any High Court " shall be substituted; and
- (b) for the words " ordinary original civil jurisdiction " the words " appellate criminal jurisdiction " shall be substituted.

(2) In sub-section (2) of the same section, for the words " Each of the said High Courts " the words " The High Court " shall be substituted.

31. In

31. In Chapter XXXVII of the said Code, after section 491 the following section shall be inserted, namely :—

Insertion of new section 491A in the Code of Criminal Procedure, 1898

“ 491A. Any High Court established by letters patent may exercise the powers conferred by section 491 in the case of any European British subject within such territories, other than those within the limits of its appellate criminal jurisdiction, as the Governor General in Council may direct.”

Powers of High Court outside the limits of appellate jurisdiction.

32. After section 526 of the said Code the following section shall be inserted, namely :—

Insertion of new section 526A in the Code of Criminal Procedure, 1898.

29 and 30
Vic., c. 109
44 and 45
Vic., c. 58
7 and 8 Geo.
V, c. 51.

“ 526A. (1) Where any person subject to the Naval Discipline Act or to the Army Act or to the Air Force Act is accused of any offence such as is referred to in proviso (a) to section 41 of the Army Act, the Advocate General shall, if so instructed by the competent authority, apply to the High Court for the committal or transfer of the case to that High Court and thereupon the High Court shall order that the case be committed for trial to or be transferred to itself and shall thereafter proceed to try the case by jury.

High Court to transfer for trial to itself in certain cases.

(2) The Governor General in Council may, by notification in the Gazette of India, declare any officer to be the competent authority for the purpose of issuing instructions under sub-section (1) in regard to any class of cases specified in the notification.”

33. After Chapter XLIV of the said Code, the following Chapter shall be inserted, namely :—

Insertion of new Chapter XLIVA in the Code of Criminal Procedure, 1898.

“ CHAPTER XLIVA.

SUPPLEMENTARY PROVISIONS RELATING TO EUROPEAN AND INDIAN BRITISH SUBJECTS AND OTHERS.

528A. (1) Where, in any case to which the provisions of Chapter XXXIII do not apply, any person claims to be dealt with as an European or Indian

Procedure of claim of a person to be dealt with as European or

Indian British subject, or as European or American.

Indian British subject, or where any person claims to be dealt with as an European (other than an European British subject) or an American, he shall state the grounds of such claim to the Magistrate before whom he is brought for the purpose of the inquiry or trial; and such Magistrate shall inquire into the truth of such statement and allow the person making it a reasonable time within which to prove that it is true, and shall then decide whether he is or is not an European British subject or an Indian British subject, or an European or an American, as the case may be, and shall deal with him accordingly.

(2) When any such claim is rejected by the Magistrate and the person by whom it was made is committed by the Magistrate for trial before the Court of Session, and such person repeats the claim before such Court, such Court shall, after such further inquiry, if any as it thinks fit, decide the claim, and shall deal with such person accordingly.

(3) When any Court before which any person is tried rejects any such claim as aforesaid the decision shall form a ground of appeal from the sentence or order passed in such trial.

Failure to plead status a waiver.

528B. If in any such case an European or Indian British subject or an European (other than an European British subject) or an American does not claim to be dealt with as such by the Magistrate before whom he is tried or by whom he is committed, or if, when such claim has been made before and rejected by the committing Magistrate, it is not repeated before the Court to which such person is committed, he shall be held to have relinquished his right to be dealt with as an European British subject or an Indian British subject, or an European or an American, as the case may be, and shall not assert it in any subsequent stage of the case.

Trial of person as belonging to class

528C. Where a person, not being an European British subject, is dealt with as an European British subject or, not being an Indian British subject, is dealt

dealt with as an Indian British subject or, not being an European (other than an European British subject) or American, is dealt with as an European or American, and such person does not object, the inquiry, commitment, trial, or sentence, as the case may be, shall not, by reason of such dealing, be invalid.

to which he does not belong.

528D. (1) Unless there is something repugnant in the context, all enactments made by the Governor General in Council or the Indian Legislature which confer on Magistrates or on the Court of Session jurisdiction over offences shall be deemed to apply to European British subjects, although such persons are not expressly referred to therein.

Application of Acts conferring jurisdiction on Magistrates or Courts of Session.

(2) Nothing in this section shall be deemed to authorise any Court to exceed the limits prescribed by this Code as to the amount of punishment which it may inflict on an European British subject or to confer jurisdiction on any Magistrate of the second or third class for the trial of such subjects."

34. For section 534 of the said Code the following section shall be substituted, namely:—

Amendment of section 534 Code of Criminal Procedure, 1898.

" 534. An omission to inform under section 447 any person of his rights under Chapter XXXIII shall not affect the validity of any proceeding."

Omission to give information under section 447.

IX of 1874. 35. In section 4 of the European Vagrancy Act, 1874 (hereinafter referred to as the said Act), for the words " the nearest Justice of the Peace exercising the powers of a Magistrate of the first class under the Code of Criminal Procedure " the words " the nearest Magistrate of the first class " shall be substituted.

Amendment of section 4, Act IX of 1874.

V of 1898.

36. In sections 5, 8 and 29 of the said Act, for the word " Justice " the words " Magistrate of the first class " shall be substituted.

Amendment of sections 5, 8 and 29, Act IX of 1874.

37. In sections 7, 9, 10 and 24 of the said Act, for the words " Justice of the Peace exercising powers as aforesaid " the words " Magistrate of the first class "

Amendment of sections 7, 9, 10 and 24, Act IX of 1874.

class "

class " shall be substituted; and, in section 10 of the said Act, the words " Justice of the Peace," where they first occur, shall be omitted.

Amendment of section 19, Act IX of 1874. **38.** In section 19 of the said Act, for the words " Justice of the Peace," wherever they occur, the words " Magistrate of the first class " shall be substituted.

Amendment of section 30, Act IX of 1874. **39.** In section 30 of the said Act, the words " beyond the limits of the said towns " the words and brackets " (other than those contained in Chapter XXXVIII of the same Code) ", and the words " If from any cause he is committed or held to bail by a Justice of the Peace to take his trial before a High Court. he shall not be at liberty to object to the jurisdiction of such Justice of the Peace or High Court on the ground of anything contained in the former part of this section " shall be omitted.

Amendment of section 35, Act IX of 1874. **40.** In section 35 of the said Act, the words " Justices of the Peace exercising the powers of a Magistrate of the first class " shall be omitted.

Amendment of the First Schedule to Act IX of 1874. **41.** In the First Schedule to the said Act, for the words " Justice of the Peace for exercising the powers of a Magistrate of the class " the words " Magistrate of the first class " shall be substituted.

Amendment of First Schedule to Act IX of 1908. **42.** In the First Schedule to the Indian Limitation Act, 1908, the following item shall be inserted IX of 1908, after item 150, namely:—

<p>" 150A.—Under the Code of Criminal Procedure, 1898, from a finding rejecting a claim under section 443 of that Code.</p>	<p>Seven days,</p>	<p>The date of the finding."</p>
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Amendment of section 3, Central Provinces Courts Act, 1917. **43.** In section 3 of the Central Provinces Courts Act, 1917, the words " except in reference to proceedings against European British subjects and persons jointly charged with the European British subjects " shall be omitted. C. P. Act I of 1917.

ACT NO. XIII OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on
the 16th March, 1923.)*

An Act further to amend the Married Women's Property Act, 1874.

III of 1874.

WHEREAS it is expedient further to amend the Married Women's Property Act, 1874; It is hereby enacted as follows :—

1. This Act may be called the Married Women's Property (Amendment) Act, 1923. Short title.

III of 1874.

2. Section 6 of the Married Women's Property Act, 1874, shall be renumbered as sub-section (1) of section 6, and to the said section the following sub-section shall be added, namely :— Amendment of section 6, Act III of 1874.

“(2) Notwithstanding anything contained in section 2, the provisions of sub-section (1) shall apply in the case of any policy of insurance such as is referred to therein which is effected by any Hindu, Muhammadan, Sikh or Jain, in Madras after the thirty-first day of December, 1913, or in any other part of British India after the first day of April, 1923 :

Provided that nothing herein contained shall affect any right or liability which has accrued or been incurred under any decree of a competent Court passed before the first day of April, 1923.”

ACT No. XIV OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 16th March, 1923.)

An Act to provide for the creation of a fund for the improvement and development of the growing, marketing and manufacture of cotton in India.

WHEREAS it is expedient to provide for the creation of a fund to be expended by a Committee specially constituted in this behalf for the improvement and development of the growing, marketing and manufacture of cotton in India; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Cotton Cess Act, 1923. Short title and extent.

(2) It extends to the whole of British India (including British Baluchistan and the Sonthal Parganas), except Aden.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(a) “Collector” means, in reference to cotton consumed in a mill in British India, the Collector of the district in which the mill is situated;

(b) “the Committee” means the Indian Central Cotton Committee constituted under this Act;

(c) “cotton” means raw cotton, whether baled or loose, which has been ginned;

(d) “Customs-collector” and “customs-port” mean respectively a Customs-collector and a customs-port as defined in section 3 of the Sea Customs Act, 1878;

(e) “mill”

- (e) “ mill ” means any place which is a factory as defined in section 2 of the Indian Factories Act, 1911, and in which cotton is converted into yarn or thread either for sale as such or for conversion into cotton goods as defined in section 3 of the Cotton Duties Act, 1896; and
 (f) “ prescribed ” means prescribed by rules made under this Act.

Imposition of
cotton cess.

3. There shall be levied and collected on all cotton produced in India and either exported from any customs-port to any port outside British India or consumed in any mill in British India a cess at the rate of two annas per standard bale of four hundred pounds avoirdupois, or, in the case of un-baled cotton, of six pies per hundred pounds avoirdupois :

Provided that the cess shall be levied and collected at double the above rates until the expiry of three years from the commencement of this Act.

Constitution
of Indian Cen-
tral Cotton
Committee.

4. As soon as may be after the commencement of this Act, the Governor General in Council shall cause to be constituted a Committee consisting of the following members, namely :—

- (i) the Agricultural Adviser to the Government of India;
- (ii) six persons representing, respectively, the Agricultural Departments of the Local Governments of Madras, Bombay, the United Provinces, the Punjab, the Central Provinces and Burma and nominated respectively by those Local Governments;
- (iii) the Director General of Commercial Intelligence;
- (iv) nine persons nominated, respectively, by the East India Cotton Association, the Bombay Millowners' Association, the Bombay Chamber of Commerce, the Indian Merchants' Chamber, Bombay,

the

the Karachi Chamber of Commerce, the Ahmedabad Millowners' Association, the Tuticorin Chamber of Commerce, the Upper India Chamber of Commerce, and the Empire Cotton Growing Corporation;

- (v) four persons representing the cotton manufacturing or cotton ginning industry, of whom two shall be nominated by the Local Government of the Central Provinces and one by each of the Local Governments of Madras and the Punjab;
- (vi) one person nominated by the Local Government of Bengal;
- (vii) one person having knowledge of co-operative banking nominated by the Governor General in Council;
- (viii) ten persons representing the cotton growing industry in Madras, Bombay, the United Provinces, the Punjab, and the Central Provinces and Berar, of whom two shall be nominated by each of the Local Governments of those Provinces;
- (ix) three persons nominated, respectively, by the Government of His Exalted Highness the Nizam of the Hyderabad State, by the Durbar of the Baroda State and by the Durbar of the Gwalior State;
- (x) one person nominated jointly by the Durbars of the Indian States in Rajputana and Central India; and
- (xi) such additional persons as the Governor General in Council may, by notification in the Gazette of India, appoint:

Provided that, if within the period prescribed in this behalf, any authority or other person fails to make any nomination which it or he is entitled to

make

make under this section, the Governor General in Council may himself appoint a member or members, as the case may be, to fill the vacancy or vacancies.

Incorporation
of the Com-
mittee.

5. (1) The Committee so constituted shall be a body corporate by the name of the Indian Central Cotton Committee, having perpetual succession and a common seal with power to acquire and hold property both moveable and immoveable and to contract, and shall by the said name sue and be sued.

(2) The Agricultural Adviser to the Government of India shall be *ex-officio* President of the Committee.

(3) The Secretary of the Committee shall be a person, not being a member of the Committee, appointed by the Governor General in Council.

Delivery of
monthly re-
turns

6. (1) The owner of every mill shall furnish to the Collector, on or before the seventh day of each month, a return stating the total amount of cotton consumed or brought under process in the mill during the preceding month, together with such further information in regard thereto as may be prescribed :

Provided that no return shall be required in regard to cotton consumed or brought under process before the commencement of this Act.

(2) Every such return shall be made in such form and shall be verified in such manner as may be prescribed.

Collection of
cess by Col-
lector.

7. (1) On receiving any return made under section 6, the Collector shall assess the cotton cess payable in respect of the period to which the return relates, and if the amount has not already been paid shall cause a notice to be served upon the owner of the mill requiring him to make payment of the amount assessed within ten days of the service of the notice.

(2) If the owner of any mill fails to furnish in due time the return referred to in section 6 or furnishes a return which the Collector has reason to believe is incorrect or defective, the Collector shall assess the amount payable by him in such manner, if any, as may be prescribed, and the provisions

provisions of sub-section (1) shall thereupon apply as if such assessment had been made on the basis of a return furnished by the owner :

Provided that, in the case of a return which he has reason to believe is incorrect or defective, the Collector shall not assess the cess at an amount higher than that at which it is assessable on the basis of the return without giving to the owner a reasonable opportunity of proving the correctness and completeness of the return.

(3) A notice under sub-section (1) may be served on the owner of a mill either by post or by delivering it or tendering it to the owner or his agent at the mill.

8. In respect of cotton exported by sea, the cess shall be assessed and levied by the Customs-collector at the customs-port of export and, subject to the provisions of this Act and of any rules made thereunder, shall, for all or any of the purposes of the Sea Customs Act, 1878, be deemed to be a duty of customs.

Collection of
cess on
exported
cotton.

9. (1) An assessment made in accordance with the provisions of section 7 or section 8 shall not be questioned in any Court.

Finality of
assessment
and recovery
of unpaid
cess

(2) Any owner of a mill who is aggrieved by an assessment made under section 7 may, within three months of service of the notice referred to in sub-section (1) of that section, apply to the Local Government for the cancellation or modification of the assessment and, on such application, the Local Government may cancel or modify the assessment and order the refund to such owner of the whole or part, as the case may be, of any amount paid thereunder.

(3) Any sum recoverable under section 7 may be recovered as an arrear of land revenue.

10. (1) The Collector or any officer empowered by general or special order of the Local Government in this behalf shall have free access at all reasonable times during working hours to any mill or to any part of any mill.

Power to ins-
pect mills and
take copies of
records and
accounts.

(2) The

(2) The Collector or any such officer may at any time, with or without notice to the owner, examine the working records, sale records and accounts of any mill and take copies of or extracts from all or any of the said records or accounts for the purpose of testing the accuracy of any return or of informing himself as to the particulars regarding which information is required for the purposes of this Act or any rules made thereunder.

(3) Where any officer other than the Collector proposes to examine under sub-section (2) any record or account containing the description or formulæ of any trade process, the owner of the mill may give to the said officer, for transmission to the Collector, a written notice of objection and the officer shall thereupon seal up the record or account pending the orders of the Collector.

Information
acquired
to be confi-
dential.

11. (1) All such copies and extracts and all information acquired by a Collector or any other officer from an inspection of any mill or warehouse or from any return submitted under this Act shall be treated as confidential.

(2) If the Collector or any such officer discloses to any person other than a superior officer any such information as aforesaid without the previous sanction of the Local Government, he shall be punishable with imprisonment which may extend to six months and shall also be liable to fine :

Provided that nothing in this section shall apply to the disclosure of any such information for the purposes of a prosecution in respect of the making of a false return under this Act.

Application of
proceeds of
cess.

12. (1) On the last day of each month, or as soon thereafter as may be convenient, the proceeds of the cess recovered during that month shall, after deduction of the expenses, if any, of collection and recovery, be paid to the Committee.

(2) Subject to such conditions as may be prescribed, the said proceeds and any other monies received by the Committee shall be applied to
meeting

meeting the expenses of the Committee and the cost of such measures as it may, with the previous approval of the Governor General in Council, decide to undertake for promoting agricultural and technological research in the interests of the cotton industry in India.

13. No act done or proceeding taken under this Act shall be questioned on the ground merely of the existence of any vacancy in or any defect in the constitution of the Committee or the Standing Finance Sub-Committee, if any. Validation

14. The Governor General in Council may, by notification in the Gazette of India, declare that, with effect from such date as may be specified in the notification, the Committee shall be dissolved, and on the making of such declaration all funds and other property vested in the Committee shall vest in His Majesty and this Act shall be deemed to have been repealed. Dissolution of
Committee.

15. (1) The Governor General in Council may make rules for the purpose of carrying into effect all or any of the provisions of this Act. Power of the
Governor
General in
Council to
make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) for prescribing the time within which nominations shall be made under section 4 whether in the first instance or on the occurrence of vacancies;
- (b) for prescribing the term of office of the members of the Committee;
- (c) for prescribing the circumstances in which and the authority by which any member may be removed;
- (d) for the holding of a minimum number of meetings of the Committee during any year;
- (e) for the maintenance by the Committee of a record of all business transacted and the

the submission of copies of such records to the Governor General in Council;

- (f) for the definition of the powers of the Committee and of the Secretary to enter into contracts which shall be binding on the Committee, and the manner in which such contracts shall be executed;
- (g) for the regulation of the travelling allowances of members of the Committee and of their remuneration, if any;
- (h) for the definition of the powers of the Committee and the Secretary in respect of the appointment, promotion and dismissal of officers and servants of the Committee, and in respect of the creation and abolition of appointments of such officers or servants;
- (i) for the regulation of the grant of pay and leave to officers and servants of the Committee, and the payment of leave allowances to such officers and servants, and the remuneration to be paid to any person appointed to act for any officer or servant to whom leave is granted;
- (j) for the regulation of the payment of pensions, gratuities, compassionate allowances and travelling allowances to officers and servants of the Committee;
- (k) for prescribing the establishment and maintenance of a provident fund for the officers and servants of the Committee, and for the deduction of subscriptions to such provident fund from the pay and allowances of such officers and servants, other than Government servants whose services have been lent or transferred to the Committee;
- (l) for prescribing the preparation of budget estimates of the annual receipts and expenditure of the Committee and of supplementary

supplementary estimates of expenditure not included in the budget estimates, and the manner in which such estimates shall be sanctioned and published;

- (m) for defining the powers of the Committee, the Standing Finance Sub-Committee, if any, the President and the Secretary, respectively, in regard to the expenditure of the funds of the Committee, whether provision has or has not been made in the budget estimates or by reappropriation for such expenditure, and in regard to the reappropriation of estimated savings in the budget estimates of expenditure;
- (n) for prescribing the maintenance of accounts of the receipts and expenditure of the Committee and providing for the audit of such accounts;
- (o) for prescribing the manner in which payments are to be made by or on behalf of the Committee, and the officers by whom orders for making deposits or investments or for withdrawals or disposal of the funds of the Committee shall be signed;
- (p) for determining the custody in which the current account of the Committee shall be kept, and the bank or banks at which surplus monies at the credit of the Committee may be deposited at interest, and the conditions on which such monies may be otherwise invested;
- (q) for prescribing the preparation of a statement showing the sums allotted to Provincial Departments of Agriculture or institutions not under the direct control of the Committee for expenditure on research, the actual expenditure incurred, the outstanding liabilities, if any, and the disposal of unexpended balances at the end of the year;

(r) the

- (r) the assessment, levy, and payment of the cotton cess in respect of cotton exported by sea; and
- (s) any other matter which is to be or may be prescribed.

Power of the
Committee to
make rules

16. The Committee may, with the previous sanction of the Governor General in Council, make rules consistent with this Act and with any rules made under section 15 to provide for all or any of the following matters, namely :—

- (a) for the appointment of a Standing Finance Sub-Committee and the delegation thereto of any powers exercisable under this Act by the Committee;
- (b) for prescribing the method of appointment, removal and replacement and the term of office of members of the Standing Finance Sub-Committee, and for the filling of vacancies therein;
- (c) for the appointment of the dates, times and places for meetings of the Committee and the Standing Finance Sub-Committee, and for regulating the procedure to be observed at such meetings;
- (d) for determining the circumstances in which security may be demanded from officers and servants of the Committee, and the amount and nature of such security in each case;
- (e) for determining the times at which, and the circumstances in which, payments may be made out of the provident fund and the conditions on which such payments shall relieve the fund from further liability;
- (f) for determining the contribution, if any, payable from the funds of the Committee to the provident fund;

(g) for

(g) for regulating generally all matters incidental to the provident fund and the investment thereof;

(h) for defining the powers and duties of the Secretary of the Committee.

17. All rules made under section 15 or section 16 shall be published in the Gazette of India and, on such publication, shall have effect as if enacted in this Act. Publication of rules.

CALCUTTA
SUPERINTENDENT GOVERNMENT PRINTING INDIA
8, HASLINGS STREET

ACT No. XV OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on
the 16th March, 1923.)

An Act to amend the Indian Income-tax Act, 1922.

XI of 1922.

WHEREAS it is expedient to amend the Indian Income-tax Act, 1922; It is hereby enacted as follows :—

1. This Act may be called the Indian Income-tax (Amendment) Act, 1923. Short title.

XI of 1922

2. To sub-section (1) of section 7 of the Indian Income-tax Act, 1922 (hereinafter referred to as the said Act), the following explanation shall be added, namely :— Amendment of section 7, Act XI of 1922.

“ *Explanation.*—The right of a person to occupy free of rent as a place of residence any premises provided by his employer is a perquisite for the purposes of this sub-section.”

3. (1) In section 68 of the said Act, in the second proviso,— Amendment of section 68, Act XI of 1922.

(a) for the words and figures “ to all assessments made under that Act in the year ending on the thirty-first day of March, 1922,” the following shall be substituted, namely :—

“ to income-tax leviable under that Act in respect of the year beginning on the first day of April, 1921, and to super-tax chargeable under the Super-tax Act, 1920, in that year ”; and

(b) for the words and figures “ section 19 of the said Act ” the words “ that section ” shall be substituted.

(2) The amendments made in the said Act by sub-section (1) shall have effect as if they had been made on the first day of April, 1922.

ACT NO. XVI OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on
the 16th March, 1923.)

An Act further to amend the Government Savings Banks Act, 1873.

V of 1873.

WHEREAS it is expedient further to amend the Government Savings Banks Act, 1873; It is hereby enacted as follows:—

1. This Act may be called the Government Savings Banks (Amendment) Act, 1923. Short title.

V of 1873

2. In section 3 of the Government Savings Banks Act, 1873 (hereinafter referred to as the said Act), for the definition of “ Secretary ” the following shall be substituted, namely:— Amendment of section 3, Act V of 1873

“ ‘ Secretary ’ means, in the case of a Post Office Savings Bank, the Postmaster-General appointed for the area in which the Savings Bank is situate.”

3. For section 4 of the said Act the following section shall be substituted, namely:— Substitution of new section for section 4, Act V of 1873.

“ 4. If a depositor dies and probate of his will or letters of administration of his estate or a certificate granted under the Succession Certificate Act, 1889, is not within three months of the death of the depositor produced to the Secretary of the Government Savings Bank in which the deposit is, then— Payment on death of depositor.

VII of 1889.

(a) if the deposit does not exceed three thousand rupees, the Secretary may pay

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[Three one anna and three pies.]

Government Savings Banks [ACT XVI OF 1923.]
(*Amendment*).

pay the same to any person appearing to him to be entitled to receive it or to administer the estate of the deceased, or

- (b) if the deposit does not exceed one hundred rupees, any officer employed in the management of a Government Savings Bank, who is empowered in this behalf by a general or special order of the Governor General in Council, may, subject to any general or special orders of the Secretary in this behalf, pay the deposit to any person appearing to him to be entitled to receive it or to administer the estate."

Amendment
of sections 6
and 7, Act V
of 1873.

4. In sections 6 and 7 of the said Act, after the words " Secretary of any such Bank " the words " or any officer empowered under section 4 " shall be inserted.

ACT No. XVII OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the 16th
March, 1923.)*

An Act to amend section 29 of the Prisoners Act, 1900.

III of 1900. **W**HEREAS it is expedient to amend section 29
of the Prisoners Act, 1900; It is hereby
enacted as follows :—

1. This Act may be called the Prisoners (Amend- Short title.
ment) Act, 1923.

III of 1900. 2. In section 29 of the Prisoners Act, 1900,—

(a) to sub-section (1) after the words “ British
India ” the words “ or to any prison in
Berar ” shall be added; and

(b) to sub-section (2) the following words shall
be added, namely :—

“ or, in the case of a prisoner so confined
in a prison in the Central Provinces,
for his removal to any other prison
in the Province or to any prison in
Berar ”.

ACT No. XVIII OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 2nd April, 1923.)

An Act further to amend the Code of Criminal Procedure, 1898, and the Court-fees Act, 1870.

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898, and the Court-fees Act, 1870; It is hereby enacted as follows :—

1. This Act may be called the Code of Criminal Procedure (Amendment) Act, 1923. Short title.

2. In section 10 of the Code of Criminal Procedure, 1898 (hereinafter referred to as the said Code),— Amendment of section 10, Code of Criminal Procedure, 1898.

(i) in sub-section (2), the words “for a period not exceeding six months” shall be omitted, and after the words “under this Code” the words “or under any other law for the time being in force,” shall be inserted; and

(ii) after sub-section (2) the following sub-section shall be added, namely :—

“(3) For the purposes of sections 192, sub-section (1), 407, sub-section (2), and 528, sub-sections (2) and (3), such Additional District Magistrate shall be deemed to be subordinate to the District Magistrate.”

3. After sub-section (2) of section 18 of the said Code the following sub-sections shall be added, namely :— Amendment of section 18, Code of Criminal Procedure, 1898.

“(3) A Presidency Magistrate may be appointed under this section for such term as the Local Government may, by general or special order, direct.

(4) The

Code of Criminal Procedure [ACT XVIII
(Amendment)].

(4) The Local Government may appoint any person to be an Additional Chief Presidency Magistrate, and such Additional Chief Presidency Magistrate shall have all or any of the powers of a Chief Presidency Magistrate under this Code or under any other law for the time being in force, as the Local Government may direct."

Amendment
of section
21, Code of
Criminal
Procedure,
1898.

4. In sub-section (2) of section 21 of the said Code, after the words "Presidency Magistrates" the words "including Additional Chief Presidency Magistrates" shall be inserted.

Amendment
of section
29, Code of
Criminal
Procedure,
1838.

5. In sub-section (2) of section 29 of the said Code, after the words "High Court or" the words "subject as aforesaid" shall be inserted.

Insertion of
new section
29B in the
Code of
Criminal
Procedure,
1898.

6. Before section 30 of the said Code the following section shall be inserted, namely :—

Jurisdiction
in the case of
juveniles.

"29B. Any offence, other than one punishable with death or transportation for life, committed by any person who at the date when he appears or is brought before the Court is under the age of fifteen years, may be tried by a District Magistrate or a Chief Presidency Magistrate, or by any Magistrate specially empowered by the Local Government to exercise the powers conferred by section 8, sub-section (1), of the Reformatory Schools Act, 1897, or, VIII of 1897, in any area in which the said Act has been wholly or in part repealed by any other law providing for the custody, trial or punishment of youthful offenders, by any Magistrate empowered by or under such law to exercise all or any of the powers conferred thereby."

Amendment
of section
35, Code of
Criminal
Procedure,
1898.

7. (1) In section 35 of the said Code,—

(i) in sub-section (1), for the words "When a person is convicted at one trial of two or more distinct offences, the Court may," the following shall be substituted, namely :—

"When a person is convicted at one trial of two or more offences, the Court may, subject to the provisions

OF 1923.] *Code of Criminal Procedure*
(Amendment).

XLV of 1860. provisions of section 71 of the Indian Penal Code ";
and

(ii) in sub-section (3), for the word "aggregate" the words "the aggregate of consecutive" shall be substituted.

(2) The *Explanation* and *Illustration* to this section are hereby repealed.

8. In section 40 of the said Code, for the word "transferred", in both places where it occurs, the word "appointed" shall be substituted, and the words "continue to" shall be omitted, and for the words "to which" the words "in which" shall be substituted.

Amendment
of section
40, Code of
Criminal
Procedure,
1898.

9. In section 45 of the said Code,—

Amendment
of section
45, Code of
Criminal
Procedure,
1898.

(1) in sub-section (1),—

(a) after the word "occupier", where it occurs for the second time, the words "in charge of the management of that land" shall be inserted, and for the word "obtain" the word "possess" shall be substituted;

(b) to clause (d), after the words "suspicious circumstances," the following words shall be added, namely:—

"or the discovery in or near such village of any corpse or part of a corpse, in circumstances which lead to a reasonable suspicion that such a death has occurred or the disappearance from such village of any person in circumstances which lead to a reasonable suspicion that a non-bailable offence has been committed in respect of such person;" and

(c) in clause (e), after the word "namely," the figures "231, 232, 233, 234, 235, 236, 237, 238," shall be inserted, and for the word and figures "and 460" the figures, letters and word "460, 489A, 489B, 489C and 489D" shall be substituted; and

(ii) in sub-section (3), after the words "District Magistrate," the words "or Sub-divisional Magistrate" shall be inserted; after the word "persons"

the

Code of Criminal Procedure [ACT XVIII
(Amendment)].

the words “with his or their consent” shall be inserted; and for the words “to be village-headman for the purposes of this section in any village for which there is no such headman appointed under any other law” the following shall be substituted, namely:—

“to perform the duties of a village-headman under this section whether a village-headman has or has not been appointed for that village under any other law.”

Amendment
of section
54, Code of
Criminal
Procedure,
1898.

10. In sub-section (1) of section 54 of the said Code, in clause *fourthly*, for the word “or” the word “and” shall be substituted, and to the same sub-section the following clause shall be added, namely:—

“*ninthly*, any person for whose arrest a requisition has been received from another police-officer, provided that the requisition specifies the person to be arrested and the offence or other cause for which the arrest is to be made and it appears therefrom that the person might lawfully be arrested without a warrant by the officer who issued the requisition.”

Amendment
of section
59 Code of
Criminal
Procedure,
1898.

11. In sub-section (1) of section 56 of the said Code, after the words “police-station” the words “or any police-officer making an investigation under Chapter XIV” shall be inserted, and to the same sub-section the following shall be added, namely:—

“The officer so required shall, before making the arrest, notify to the person to be arrested the substance of the order and, if so required by such person, shall show him the order.”

Amendment
of section
59, Code of
Criminal
Procedure,
1898

12. For sub-section (1) of section 59 of the said Code the following sub-section shall be substituted, namely:—

“(1) Any private person may arrest any person who in his view commits a non-bailable and cognizable offence, or any proclaimed offender, and, without unnecessary delay, shall make over any person so arrested to a police-officer, or, in the absence of a
police-officer,

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(Amendment).

police-officer, take such person or cause him to be taken in custody to the nearest police-station."

13. (1) After sub-section (6) of section 88 of the said Code the following sub-sections shall be inserted, namely :—

Amendment
of section
88, Code of
Criminal
Procedure,
1898.

"(6A) If any claim is preferred to, or objection made to the attachment of, any property attached under this section within six months from the date of such attachment, by any person other than the proclaimed person, on the ground that the claimant or objector has an interest in such property, and that such interest is not liable to attachment under this section, the claim or objection shall be inquired into, and may be allowed or disallowed in whole or in part :

Provided that any claim preferred or objection made within the period allowed by this sub-section may, in the event of the death of the claimant or objector, be continued by his legal representative.

(6B) Claims or objections under sub-section (6A) may be preferred or made in the Court by which the order of attachment is issued or, if the claim or objection is in respect of property attached under an order endorsed by a District Magistrate or Chief Presidency Magistrate in accordance with the provisions of sub-section (2), in the Court of such Magistrate.

(6C) Every such claim or objection shall be inquired into by the Court in which it is preferred or made :

Provided that, if it is preferred or made in the Court of a District Magistrate or Chief Presidency Magistrate, such Magistrate may make it over for disposal to any Magistrate of the first or second class or to any Presidency Magistrate, as the case may be, subordinate to him.

(6D) Any person whose claim or objection has been disallowed in whole or in part by an order under sub-section (6A) may, within a period of one year from the date of such order, institute a suit to establish the right which he claims in respect of the
property

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(Amendment)].

to execute a bond, with or without sureties, for keeping the peace or maintaining good behaviour until the conclusion of the inquiry, and may detain him in custody until such bond is executed or, in default of execution, until the inquiry is concluded :

Provided that—

(a) no person against whom proceedings are not being taken under section 108, section 109, or section 110, shall be directed to execute a bond for maintaining good behaviour, and

(b) the conditions of such bond, whether as to the amount thereof or as to the provision of sureties or the number thereof or the pecuniary extent of their liability, shall not be more onerous than those specified in the order under section 112”;

(ii) sub-section (3) shall be re-numbered (4), and after the words “habitual offender” in the said sub-section, the words “or is so desperate and dangerous as to render his being at large without security hazardous to the community” shall be inserted; and

(iii) sub-section (4) shall be re-numbered (5).

20. For section 122 of the said Code the following section shall be substituted, namely :—

Substitution
of new
section for
section 122,
Code of
Criminal
Procedure,
1898.

Power to
reject
sureties.

“122. (1) A Magistrate may, refuse to accept any surety offered, or may reject any surety previously accepted by him or his predecessor under this Chapter on the ground that such surety is an unfit person for the purposes of the bond :

Provided that, before so refusing to accept or rejecting any such surety, he shall either himself hold an inquiry on oath into the fitness of the surety, or cause such inquiry to be held and a report to be made thereon by a Magistrate subordinate to him.

(2) Such Magistrate shall, before holding the inquiry, give reasonable notice to the surety and to the person by whom the surety was offered and shall, in
making

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(Amendment).

making the inquiry, record the substance of the evidence adduced before him.

(3) If the Magistrate is satisfied, after considering the evidence so adduced either before him or before a Magistrate deputed under sub-section (1), and the report of such Magistrate (if any) that the surety is an unfit person for the purposes of the bond, he shall make an order refusing to accept or rejecting, as the case may be, such surety and recording his reasons for so doing :

Provided that, before making an order rejecting any surety who has previously been accepted, the Magistrate shall issue his summons or warrant, as he thinks fit, and cause the person for whom the surety is bound to appear or to be brought before him."

21. (1) After sub-section (3) of section 123 of the said Code the following sub-sections shall be inserted, namely :—

Amendment
of section
123, Code of
Criminal
Procedure,
1898.

" (3A) If security has been required in the course of the same proceedings from two or more persons in respect of any one of whom the proceedings are referred to the Sessions Judge or the High Court under sub-section (2), such reference shall also include the case of any other of such persons who has been ordered to give security, and the provisions of sub-sections (2) and (3) shall, in that event, apply to the case of such other person also, except that the period (if any) for which he may be imprisoned shall not exceed the period for which he was ordered to give security.

(3B) A Sessions Judge may in his discretion transfer any proceedings laid before him under sub-section (2) or sub-section (3A) to an Additional Sessions Judge or Assistant Sessions Judge and upon such transfer, such Additional Sessions Judge or Assistant Sessions Judge may exercise the powers of a Sessions Judge under this section in respect of such proceedings."

(2) In

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(Amendment).

(2) In sub-section (6) of the same section, for the word “ may ” the following words shall be substituted, namely :—

“ shall, where the proceedings have been taken under section 108 or section 109, be simple and, where the proceedings have been taken under section 110 ’.

Amendment
of section
124, Code of
Criminal
Procedure,
1898.

22. In section 124 of the said Code,—

(i) in sub-section (1), the words “ whether by the order of such Magistrate or that of his predecessor in office, or of some subordinate Magistrate,” shall be omitted;

(ii) for sub-section (3) the following sub-section shall be substituted, namely :—

“ (3) An order under sub-section (1) may direct the discharge of such person either without conditions or upon any conditions which such person accepts :

Provided that any condition imposed shall cease to be operative when the period for which such person was ordered to give security has expired ”; and

(iii) after sub-section (3) the following sub-sections shall be inserted, namely :—

“ (4) The Local Government may prescribe the conditions upon which a conditional discharge may be made.

(5) If any condition upon which any such person has been discharged is, in the opinion of the District Magistrate or Chief Presidency Magistrate by, whom the order of discharge was made or of his successor, not fulfilled, he may cancel the same.

(6) When a conditional order of discharge has been cancelled under sub-section (5), such person may be arrested by any police-officer without warrant, and shall thereupon be produced before the District Magistrate or Chief Presidency Magistrate.

Unless such person then gives security in accordance with the terms of the original order for the unexpired portion of the term for which he was in the first instance committed or ordered to be detained (such portion being deemed to be a period equal to

the

the period between the date of the breach of the conditions of discharge and the date on which, except for such conditional discharge, he would have been entitled to release), the District Magistrate or Chief Presidency Magistrate may remand such person to prison to undergo such unexpired portion.

A person remanded to prison under this sub-section shall, subject to the provisions of section 122, be released at any time on giving security in accordance with the terms of the original order for the unexpired portion aforesaid to the Court or Magistrate by whom such order was made, or to its or his successor."

23. Sub-section (3) of section 126 of the said Code shall be re-numbered section 126A, and in that section, as re-numbered, for the words "When such person appears or is brought before the Magistrate, such Magistrate shall cancel the bond" the following shall be substituted, namely :—

Amendment of section 126, Code of Criminal Procedure, 1898.

"When a person for whose appearance a warrant or summons has been issued under the proviso to sub-section (3) of section 122 or under section 126, sub-section (2), appears or is brought before him, the Magistrate shall cancel the bond executed by such person."

24. For section 133 of the said Code the following section shall be substituted, namely :—

Substitution of new section for section 133, Code of Criminal Procedure, 1898.

"133. (1) Whenever a District Magistrate, a Sub-divisional Magistrate or a Magistrate of the first class considers, on receiving a police-report or other information and on taking such evidence (if any) as he thinks fit,

Conditional order for removal of nuisance.

that any unlawful obstruction or nuisance should be removed from any way, river or channel which is or may be lawfully used by the public, or from any public place, or

that the conduct of any trade or occupation, or the keeping of any goods or merchandise, is injurious

Code of Criminal Procedure [ACT XVIII
(Amendment)].

to the health or physical comfort of the community, and that in consequence such trade or occupation should be prohibited or regulated or such goods or merchandise should be removed or the keeping thereof regulated, or

that the construction of any building, or the disposal of any substance, as likely to occasion conflagration or explosion, should be prevented or stopped, or

that any building, tent or structure, or any tree is in such a condition that it is likely to fall and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by, and that in consequence the removal, repair or support of such building, tent or structure, or the removal or support of such tree, is necessary, or

that any tank, well or excavation adjacent to any such way or public place should be fenced in such manner as to prevent danger arising to the public, or

that any dangerous animal should be destroyed, confined or otherwise disposed of,

such Magistrate may, make a conditional order requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation, or keeping any such goods or merchandise, or owning, possessing or controlling such building, tent, structure, substance, tank, well or excavation, or owning or possessing such animal or tree, within a time to be fixed in the order,

to remove such obstruction or nuisance; or

to desist from carrying on, or to remove or regulate in such manner as may be directed, such trade or occupation; or

to remove such goods or merchandise, or to regulate the keeping thereof in such manner as may be directed; or

to prevent or stop the erection of, or to remove, repair or support, such building, tent or structure; or

to remove or support such tree; or

to alter the disposal of such substance; or

to

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(*Amendment*).

to fence such tank, well or excavation, as the case may be; or

to destroy, confine or dispose of such dangerous animal in the manner provided in the said order;

or, if he objects so to do,

to appear before himself or some other Magistrate of the first or second class, at a time and place to be fixed by the order, and move to have the order set aside or modified in the manner hereinafter provided.

(2) No order duly made by a Magistrate under this section shall be called in question in any Civil Court.

Explanation.—A ‘ public place ’ includes also property belonging to the State, camping grounds and grounds left unoccupied for sanitary or recreative purposes.”

25. In section 135 of the said Code, in clause (a), after the words “ within the time ” the words “ and in the manner ” shall be inserted.

Amendment of section 135, Code of Criminal Procedure, 1898.

26. After section 139 of the said Code the following section shall be inserted, namely :—

Insertion of new section 139A in the Code of Criminal Procedure, 1898.

“139A. (1) Where an order is made under section 133 for the purpose of preventing obstruction, nuisance or danger to the public in the use of any way, river, channel or place, the Magistrate shall, on the appearance before him of the person against whom the order was made, question him as to whether he denies the existence of any public right in respect of the way, river, channel or place, and, if he does so, the Magistrate shall, before proceeding under section 137 or section 138, inquire into the matter.

Procedure where existence of public right is denied.

(2) If in such inquiry the Magistrate finds that there is any reliable evidence in support of such denial, he shall stay the proceedings until the matter of the existence of such right has been decided by a competent Civil Court; and, if he finds that there is

Code of Criminal Procedure [ACT XVIII
(*Amendment*).

no such evidence, he shall proceed as laid down in section 137 or section 138, as the case may require.

(3) A person who has, on being questioned by the Magistrate under sub-section (1), failed to deny the existence of a public right of the nature therein referred to, or who, having made such denial, has failed to adduce reliable evidence in support thereof, shall not in the subsequent proceedings be permitted to make any such denial, nor shall any question in respect of the existence of any such public right be inquired into by any jury appointed under section 138."

Amendment
of section
144, Code of
Criminal
Procedure,
1898.

27. In section 144 of the said Code,—

(i) in sub-section (1), after the words "or of any other Magistrate" the words and brackets "(not being a Magistrate of the third class)" shall be inserted, and after the words "under this section" the words "there is sufficient ground for proceeding under this section and" shall be inserted;

(ii) in sub-section (4), after the word "may" the words "either on his own motion or on the application of any person aggrieved" shall be inserted; and

(iii) sub-section (5) shall be re-numbered as sub-section (6), and the following shall be inserted as sub-section (5), namely :—

"(5) Where such an application is received, the Magistrate shall afford to the applicant an early opportunity of appearing before him either in person or by pleader and shewing cause against the order; and, if the Magistrate rejects the application wholly or in part, he shall record in writing his reasons for so doing."

Amendment
of section
145, Code of
Criminal
Procedure,
1898.

28. In section 145 of the said Code,—

(i) in sub-section (4), for the words "receive the evidence" the words "receive all such evidence as may be" shall be substituted;

(ii) in sub-section (6), after the word "was" the words "or should under the first proviso to sub-section (4) be treated as being" shall be inserted, and
the

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(Amendment).

the following shall be added after the words "such eviction," namely :—

"and when he proceeds under the first proviso to sub-section (4), may restore to possession the party forcibly and wrongfully dispossessed";

(iii) for sub-section (7) the following sub-section shall be substituted, namely :—

"(7) When any party to any such proceeding dies, the Magistrate may cause the legal representative of the deceased party to be made a party to the proceeding, and shall thereupon continue the inquiry, and if any question arises as to who the legal representative of a deceased party for the purpose of such proceeding is, all persons claiming to be representatives of the deceased party shall be made parties thereto."; and

(iv) after sub-section (7) the following sub-sections shall be added, namely :—

"(8) If the Magistrate is of opinion that any crop or other produce of the property, the subject of dispute in a proceeding under this section pending before him, is subject to speedy and natural decay, he may make an order for the proper custody or sale of such property, and, upon the completion of the inquiry, shall make such order for the disposal of such property, or the sale-proceeds thereof, as he thinks fit.

(9) The Magistrate may, if he thinks fit, at any stage of the proceedings under this section, on the application of either party, issue a summons to any witness directing him to attend or to produce any document or thing.

(10) Nothing in this section shall be deemed to be in derogation of the powers of the Magistrate to proceed under section 107."

29. (1) To sub-section (1) of section 146 of the said Code the following proviso shall be added, namely :—

Amendment
of section
146, Code of
Criminal
Procedure,
1898.

"Provided that the District Magistrate or the Magistrate who has attached the subject of dispute may withdraw the attachment at any time if he is
satisfied

Code of Criminal Procedure [ACT XVIII
(*Amendment*)].

satisfied that there is no longer any likelihood of a breach of the peace in regard to the subject of dispute.”

(2) In sub-section (2) of the same section, after the words “thinks fit” the words “and if no receiver of the property, the subject of dispute, has been appointed by any Civil Court” shall be inserted, and to the same sub-section the following proviso shall be added, namely :—

“Provided that, in the event of a receiver of the property, the subject of dispute, being subsequently appointed by any Civil Court, possession shall be made over to him by the receiver appointed by the Magistrate, who shall thereupon be discharged.”

30. For section 147 of the said Code the following section shall be substituted, namely :—

Substitution
of new
section
for section
147, Code of
Criminal
Procedure,
1898.
Disputes
concerning
rights of use
of immove-
able pro-
perty, etc.

“147. (1) Whenever any District Magistrate, Sub-divisional Magistrate or Magistrate of the first class is satisfied, from a police-report or other information, that a dispute likely to cause a breach of the peace exists regarding any alleged right of user of any land or water as explained in section 145, sub-section (2) (whether such right be claimed as an easement or otherwise), within the local limits of his jurisdiction, he may make an order in writing stating the grounds of his being so satisfied and requiring the parties concerned in such dispute to attend the Court in person or by pleader within a time to be fixed by such Magistrate and to put in written statements of their respective claims, and shall thereafter inquire into the matter in the manner provided in section 145, and the provisions of that section shall, as far as may be, be applicable in the case of such inquiry.

(2) If it appears to such Magistrate that such right exists, he may make an order prohibiting any interference with the exercise of such right :

Provided that no such order shall be made where the right is exercisable at all times of the year, unless
such

such right has been exercised within three months next before the institution of the inquiry, or where the right is exercisable only at particular seasons or on particular occasions, unless the right has been exercised during the last of such seasons or on the last of such occasions before such institution.

(3) If it appears to such Magistrate that such right does not exist, he may make an order prohibiting any exercise of the alleged right.

(4) An order under this section shall be subject to any subsequent decision of a Civil Court of competent jurisdiction."

31. In sub-section (3) of section 148 of the said Code, the words "for witnesses, or pleaders' fees, or both," shall be omitted, and for the words "All costs so directed to be paid may be recovered as if they were fines" the words "Such costs may include any expenses incurred in respect of witnesses, and of pleaders' fees, which the Court may consider reasonable" shall be substituted.

Amendment
of section
148, Code of
Criminal
Procedure,
1898.

32. In section 157 of the said Code,—

Amendment
of section
157, Code of
Criminal
Procedure,
1898.

(i) in sub-section (1), after the words "one of his subordinate officers" the words "not being below such rank as the Local Government may, by general or special order, prescribe in this behalf" shall be inserted, and for the words "and to take such measures as may be necessary," the words "and, if necessary, to take measures" shall be substituted; and

(ii) to sub-section (2), after the words "that sub-section" the words "and, in the case mentioned in clause (b), such officer shall also forthwith notify to the informant, if any, in such manner as may be prescribed by the Local Government, the fact that he will not investigate the case or cause it to be investigated" shall be added.

33. In sub-section (1) of section 161 of the said Code, after the word "Chapter" the words "or any police-officer not below such rank as the Local Government may, by general or special order, prescribe in this behalf, acting on the requisition of such officer" shall be inserted.

Amendment
of section
161, Code of
Criminal
Procedure,
1898.

34. For

Code of Criminal Procedure [ACT XVIII
(*Amendment*).

Amendment
of section
162, Code of
Criminal
Procedure,
1898.

34. For sub-section (1) of section 162 of the said Code the following sub-section shall be substituted, namely :—

Statements
to police not
to be signed;
use of such
statements in
evidence.

“(1) No statement made by any person to a police-officer in the course of an investigation under this Chapter shall, if reduced into writing, be signed by the person making it; nor shall any such statement or any record thereof, whether in a police-diary or otherwise, or any part of such statement or record, be used for any purpose (save as hereinafter provided) at any inquiry or trial in respect of any offence under investigation at the time when such statement was made :

Provided that, when any witness is called for the prosecution in such inquiry or trial whose statement has been reduced into writing as aforesaid, the Court shall, on the request of the accused, refer to such writing and direct that the accused be furnished with a copy thereof, in order that any part of such statement, if duly proved, may be used to contradict such witness in the manner provided by section 145 of the Indian Evidence Act, 1872. When any part of such statement is so used, any part thereof may also be used in the re-examination of such witness, but for the purpose only of explaining any matter referred to in his cross-examination :

I of 1872.

Provided, further, that, if the Court is of opinion that any part of any such statement is not relevant to the subject-matter of the inquiry or trial or that its disclosure to the accused is not essential in the interests of justice and is inexpedient in the public interests, it shall record such opinion (but not the reasons therefor) and shall exclude such part from the copy of the statement furnished to the accused.”

Amendment
of section
164, Code of
Criminal
Procedure,
1898.

35. In section 164 of the said Code,—

(?) in sub-section (1), for the words “ Every Magistrate not being a police-officer may ” the words “ Any Presidency Magistrate, any Magistrate of the first class and any Magistrate of the second class specially empowered in this behalf by the Local Government

OF 1923.] *Code of Criminal Procedure*
(Amendment).

Government may, if he is not a police-officer " shall be substituted; and

(ii) in sub-section (3),—

(a) for the words " No Magistrate " the following words shall be substituted, namely :—

" A Magistrate shall, before recording any such confession, explain to the person making it that he is not bound to make a confession and that if he does so it may be used as evidence against him and no Magistrate "; and

(b) for the words " I believe " the following words shall be substituted, namely :—

" I have explained to (name) that he is not bound to make a confession and that, if he does so, any confession he may make may be used as evidence against him and I believe ".

36. In section 165 of the said Code,—

(i) for sub-sections (1) and (2) the following sub-sections shall be substituted, namely :—

Amendment
of section
165, Code of
Criminal
Procedure,
1898.

" (1) Whenever an officer in charge of a police-station or a police-officer making an investigation has reasonable grounds for believing that anything necessary for the purposes of an investigation into any offence which he is authorised to investigate may be found in any place within the limits of the police-station of which he is in charge, or to which he is attached, and that such thing cannot in his opinion be otherwise obtained without undue delay, such officer may, after recording in writing the grounds of his belief and specifying in such writing, so far as possible, the thing for which search is to be made, search, or cause search to be made, for such thing in any place within the limits of such station.

(2) A police-officer proceeding under sub-section (1) shall, if practicable, conduct the search in person ";

(ii) in

Code of Criminal Procedure [ACT XVIII
(*Amendment*).]

(ii) in sub-section (3), after the words “ he may ” the words “ after recording in writing his reasons for so doing ” shall be inserted, and for the words “ specifying the document or thing for which search is to be made and the place to be searched ” the words “ specifying the place to be searched and, so far as possible, the thing for which search is to be made ” shall be substituted;

(iii) in sub-section (4), after the words “ search warrants ” the words “ and the general provisions as to searches contained in section 102 and section 103 ” shall be inserted; and

(iv) after sub-section (4) the following sub-section shall be added, namely :—

“ (5) Copies of any record made under sub-section (1) or sub-section (3) shall forthwith be sent to the nearest Magistrate empowered to take cognizance of the offence and the owner or occupier of the place searched shall on application be furnished with a copy of the same by the Magistrate :

Provided that he shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost.”

Amendment
of section
166, Code of
Criminal
Procedure,
1898.

37. (1) In sub-section (1) of section 166 of the said Code, after the words “ An officer in charge of a police-station ” the words “ or a police-officer not being below the rank of sub-inspector making an investigation ” shall be inserted.

(2) After sub-section (2) of the same section the following sub-sections shall be added, namely :—

“ (3) Whenever there is reason to believe that the delay occasioned by requiring an officer in charge of another police-station to cause a search to be made under sub-section (1) might result in evidence of the commission of an offence being concealed or destroyed, it shall be lawful for an officer in charge of a police-station or a police-officer making an investigation under this Chapter to search, or cause to be searched, any place in the limits of another police-station, in accordance with the provisions of
section

OF 1923.] *Code of Criminal Procedure*
(*Amendment*).

section 165, as if such place were within the limits of his own station.

(4) Any officer conducting a search under sub-section (3) shall forthwith send notice of the search to the officer in charge of the police-station within the limits of which such place is situate, and shall also send with such notice a copy of the list (if any) prepared under section 103, and shall also send to the nearest Magistrate empowered to take cognizance of the offence, copies of the records referred to in section 165, sub-sections (1) and (3).

(5) The owner or occupier of the place searched shall, on application, be furnished with a copy of any record sent to the Magistrate under sub-section (4) :

Provided that he shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost."

38. In section 167 of the said Code,—

(i) in sub-section (1),—

(a) for the words " it appears that any " the words " any person is arrested and detained in custody, and it appears that the " shall be substituted, and the words " under this Chapter " shall be omitted;

(b) after the words " officer in charge of the police-station " the words " or the police-officer making the investigation if he is not below the rank of sub-inspector " shall be inserted; and

(c) the words and brackets " (if any) " shall be omitted; and

(ii) to sub-section (2), after the words " such jurisdiction ", the following proviso shall be added, namely :—

" Provided that no Magistrate of the third class, and no Magistrate of the second class not specially empowered in this behalf by the Local Government shall authorise detention in the custody of the police."

Amendment
of section
167, Code of
Criminal
Procedure,
1898.

39. In

Code of Criminal Procedure [ACT XVIII
(*Amendment*)].

Amendment
of section
169, Code of
Criminal
Procedure,
1898.

39. In section 169 of the said Code, after the words “officer in charge of the police-station” the words “or to the police-officer making the investigation” shall be inserted.

Amendment
of section
173, Code of
Criminal
Procedure,
1898.

40. (1) For sub-section (1) of section 173 of the said Code, the following sub-section shall be substituted, namely:—

“(1) Every investigation under this Chapter shall be completed without unnecessary delay, and, as soon as it is completed, the officer in charge of the police-station shall—

(a) forward to a Magistrate empowered to take cognizance of the offence on a police-report a report, in the form prescribed by the Local Government, setting forth the names of the parties, the nature of the information and the names of the persons who appear to be acquainted with the circumstances of the case, and stating whether the accused (if arrested) has been forwarded in custody, or has been released on his bond, and, if so, whether with or without sureties, and

(b) communicate, in such manner as may be prescribed by the Local Government, the action taken by him to the person, if any, by whom the information relating to the commission of the offence was first given.”

(2) After sub-section (3) of the same section the following sub-section shall be inserted, namely:—

“(4) A copy of any report forwarded under this section shall, on application, be furnished to the accused before the commencement of the inquiry or trial:

Provided that the same shall be paid for unless the Magistrate for some special reason thinks fit to furnish it free of cost.”

Amendment
of section
174, Code of

41. In sub-section (5) of section 174 of the said Code, for the words “or Sub-divisional Magistrate,”

OF 1923.] *Code of Criminal Procedure*
(*Amendment*).

Magistrate," the words " Sub-divisional Magistrate or Magistrate of the first class," shall be substituted.

Criminal Procedure, 1898.

42. For sub-section (3) of section 181 of the said Code the following sub-section shall be substituted, namely :—

Amendment of section 181, Code of Criminal Procedure, 1898.

" (3) The offence of theft, or any offence which includes theft or the possession of stolen property, may be inquired into or tried by a Court within the local limits of whose jurisdiction such offence was committed or the property stolen was possessed by the thief or by any person who received or retained the same knowing or having reason to believe it to be stolen."

Theft.

43. For section 185 of the said Code the following section shall be substituted, namely :—

Substitution of new section for section 185, Code of Criminal Procedure, 1898.

" 185. (1) Whenever a question arises as to which of two or more Courts subordinate to the same High Court ought to inquire into or try any offence, it shall be decided by that High Court.

High Court to decide, in case of doubt, district where inquiry or trial shall take place.

(2) Where two or more Courts not subordinate to the same High Court have taken cognizance of the same offence, the High Court, within the local limits of whose appellate criminal jurisdiction the proceedings were first commenced, may direct the trial of such offender to be held in any Court subordinate to it, and if it so decides, all other proceedings against such person in respect of such offence shall be discontinued. If such High Court, upon the matter having been brought to its notice, does not so decide, any other High Court, within the local limits of whose appellate criminal jurisdiction such proceedings are pending, may give a like direction, and upon its so doing all other such proceedings shall be discontinued."

44. In the first proviso to section 188 of the said Code, after the words " Provided that " the words " notwithstanding anything in any of the preceding sections of this Chapter " shall be inserted.

Amendment of section 188, Code of Criminal Procedure, 1898.

45. For

Code of Criminal Procedure [ACT XVIII
(*Amendment*).

Amendment
of section
190, Code of
Criminal
Procedure,
1898.

45. For clause (b) of sub-section (1) of section 190 of the said Code the following clause shall be substituted, namely :—

“(b) upon a report in writing of such facts made by any police-officer;”

Amendment
of section
193, Code of
Criminal
Procedure,
1898.

46. In sub-section (2) of section 193 of the said Code, the words “ in the case of Assistant Sessions Judges ” shall be omitted.

Amendment
of section
195, Code of
Criminal
Procedure,
1898.

47. (1) For sub-section (1) of section 195 of the said Code the following sub-section shall be substituted, namely :—

“(1) No Court shall take cognizance—

Prosecution
for contempt
of lawful
authority of
public
servants.

(a) of any offence punishable under sections 172 to 188 of the Indian Penal Code, except on the complaint in writing of the public servant concerned, or of some other public servant to whom he is subordinate; XLV of 1860.

Prosecution
for certain
offences
against public
justice.

(b) of any offence punishable under any of the following sections of the same Code, namely, sections 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211 and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, except on the complaint in writing of such Court or of some other Court to which such Court is subordinate; or

Prosecution
for certain
offences
relating to
documents
give in
evidence.

(c) of any offence described in section 463 or punishable under section 471, section 475 or section 476 of the same Code, when such offence is alleged to have been committed by a party to any proceeding in any Court in respect of a document produced or given in evidence in such proceeding, except on the complaint in writing of such Court, or of some other Court to which such Court is subordinate.”

(2) In sub-section (2) of the same section, for the word “ means ” the word “ includes ” shall be substituted.

(3) Sub-sections (4), (5) and (6) of the same section shall be omitted.

(4) Sub-sections

OF 1923.] *Code of Criminal Procedure*
(*Amendment*).

(4) Sub-sections (7) and (3) of the same section shall be re-numbered (3) and (4), respectively, and for sub-section (3), as re-numbered, the following sub-section shall be substituted, namely :—

“(3) For the purposes of this section, a Court shall be deemed to be subordinate to the Court to which appeals ordinarily lie from the appealable decrees or sentences of such former Court, or in the case of a Civil Court from whose decrees no appeal ordinarily lies, to the principal Court having ordinary original civil jurisdiction within the local limits of whose jurisdiction such Civil Court is situate :

Provided that—

(a) where appeals lie to more than one Court, the Appellate Court of inferior jurisdiction shall be the Court to which such Court shall be deemed to be subordinate; and

(b) where appeals lie to a Civil and also to a Revenue Court, such Court shall be deemed to be subordinate to the Civil or Revenue Court according to the nature of the case or proceeding in connection with which the offence is alleged to have been committed.”

(5) After sub-section (4) of the same section, as re-numbered, the following sub-section shall be inserted, namely :—

“(5) Where a complaint has been made under sub-section (1), clause (a), by a public servant, any authority to which such public servant is subordinate may order the withdrawal of the complaint and, if it does so, it shall forward a copy of such order to the Court and, upon receipt thereof by the Court no further proceedings shall be taken on the complaint.”

48. In the proviso to section 196A of the said Code, for the figure and brackets “(3)” the figure and brackets “(4)” shall be substituted.

Amendment of section 196A, Code of Criminal Procedure, 1898.

49. After section 196A of the said Code the following section shall be inserted, namely :—

Insertion of new section 196B in the Code of Criminal Procedure, 1898.

“ 196B.

Code of Criminal Procedure [ACT XVIII
(Amendment)].

Preliminary
inquiry in
certain cases

“ 196B. In the case of any offence in respect of which the provisions of section 196 or section 196A apply, a District Magistrate or Chief Presidency Magistrate may, notwithstanding anything contained in those sections or in any other part of this Code, order a preliminary investigation by a police-officer not being below the rank of Inspector, in which case such police-officer shall have the powers referred to in section 155, sub-section (3).”

Amendment
of section
197, Code of
Criminal
Procedure,
1898.

50. In section 197 of the said Code,—

(i) for sub-section (1) the following sub-section shall be substituted, namely :—

“(1) When any person who is a Judge within the meaning of section 19 of the Indian Penal Code, or when any Magistrate, or when any public servant who is not removable from his office save by or with the sanction of a Local Government or some higher authority, is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction of the Local Government;” and

(ii) in sub-section (2), after the word “ Judge ” the word “ Magistrate ” shall be inserted.

Amendment
of section
198, Code of
Criminal
Procedure,
1898.

51. To section 198 of the said Code the following proviso shall be added, namely :—

“ Provided that, where the person so aggrieved is a woman who, according to the customs and manners of the country, ought not to be compelled to appear in public, or where such person is under the age of eighteen years or is an idiot or lunatic, or is from sickness or infirmity unable to make a complaint, some other person may, with the leave of the Court, make a complaint on his or her behalf.”

Amendment
of section
199, Code of
Criminal
Procedure,
1898.

52. In section 199 of the said Code, after the word “ absence ” the words “ made with the leave of the Court ” shall be inserted, and to the same section the following proviso shall be added, namely :—

“ Provided that, where such husband is under the age of eighteen years, or is an idiot or lunatic,

or

of 1923.] *Code of Criminal Procedure*
(Amendment).

or is from sickness or infirmity unable to make a complaint, some other person may, with the leave of the Court, make a complaint on his behalf."

53. In Chapter XV of the said Code, after section 199 the following section shall be inserted, namely :—

Insertion of new section 199A in the Code of Criminal Procedure, 1898.

" 199A. When in any case falling under section 198 or section 199, the person on whose behalf the complaint is sought to be made is under the age of eighteen years or is a lunatic, and the person applying for leave has not been appointed or declared by competent authority to be the guardian of the person of the said minor or lunatic, and the Court is satisfied that there is a guardian so appointed or declared, notice shall be given to such guardian, and the Court shall, before granting the application, give him a reasonable opportunity of objecting to the granting thereof."

Objection by lawful guardian to complaint by person other than person aggrieved.

54. In section 200 of the said Code, the words and figures " Subject to the provisions of section 476 " shall be omitted, and after proviso (a) the following proviso shall be inserted, namely :—

Amendment of section 200, Code of Criminal Procedure, 1898.

" (aa) when the complaint is made in writing, nothing herein contained shall be deemed to require the examination of a complainant in any case in which the complaint has been made by a Court or by a public servant acting or purporting to act in the discharge of his official duties."

55. In section 202 of the said Code,—

(i) for sub-sections (1) and (2) the following sub-sections shall be substituted, namely :—

Amendment of section 202, Code of Criminal Procedure, 1898.

" (1) Any Magistrate, on receipt of a complaint of an offence of which he is authorised to take cognizance, or which has been transferred to him under section 192, may, if he thinks fit, for reasons to be recorded in writing, postpone the issue of process for compelling the attendance of the person complained against, and either inquire into the case himself or, if he is a Magistrate other than a Magistrate of the third class, direct an inquiry or investigation to be made

Postponement for issue of process.

Code of Criminal Procedure [ACT XVIII
(Amendment)].

made by any Magistrate subordinate to him, or by a police-officer, or by such other person as he thinks fit, for the purpose of ascertaining the truth or falsehood of the complaint :

Provided that no such direction shall be made—

(a) unless the complainant has been examined on oath under the provisions of section 200, or

(b) where the complaint has been made by a Court under the provisions of this Code.

(2) If any inquiry or investigation under this section is made by a person not being a Magistrate or a police-officer, such person shall exercise all the powers conferred by this Code on an officer in charge of a police-station, except that he shall not have power to arrest without warrant ”; and

(ii) after sub-section (2) the following sub-section shall be added, namely :—

“ (2A) Any Magistrate inquiring into a case under this section may, if he thinks fit, take evidence of witnesses on oath.”

Amendment
of section
203, Code of
Criminal
Procedure,
1898.

56. In section 203 of the said Code, for the words “ after examining the complainant and considering the result of the investigation (if any) made under section 202 ” the words “ after considering the statement on oath (if any) of the complainant and the result of any investigation or inquiry under section 202 ” shall be substituted.

Amendment
of section
206, Code of
Criminal
Procedure,
1898. §

57. In sub-section (1) of section 206 of the said Code, after the words “ or any Magistrate ” the words and brackets “ (not being a Magistrate of the third class) ” shall be inserted.

Amendment
of section
210, Code of
Criminal
Procedure,
1898.

58. In sub-section (2) of section 210 of the said Code, for the words “ the charge ” the words “ such charge ” shall be substituted.

Amendment
of section
215, Code of
Criminal
Procedure,
1898.

59. In section 215 of the said Code, the words and figures “ or by a Court of Session under section 477 ” shall be omitted.

60. (1) In

60. (1) In sub-section (1) of section 219 of the said Code, for the words "The Magistrate" the words "The committing Magistrate or, in the absence of such Magistrate, any other Magistrate empowered by or under section 206" shall be substituted.

Amendment of section 219, Code of Criminal Procedure, 1898.

(2) In sub-section (2) of the same section, for the words "if the accused so require, be given to him free of cost" the words "be given to the accused free of cost" shall be substituted.

61. In sub-section (7) of section 221 of the said Code,—

Amendment of section 221 Code of Criminal Procedure, 1898.

(i) for the words "has been previously convicted of any offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court is competent to award," the following shall be substituted, namely:—

"having been previously convicted of any offence, is liable, by reason of such previous conviction, to enhanced punishment, or to punishment of a different kind, for a subsequent offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court may think fit to award for the subsequent offence," and

(ii) for the words "is omitted" the words "has been omitted" shall be substituted.

62. In section 234 of the said Code,—

Amendment of section 234, Code of Criminal Procedure, 1898.

(i) in sub-section (1), after the words "such offences" the words "whether in respect of the same person or not" shall be inserted; and

(ii) to sub-section (2) the following proviso shall be added, namely:—

XLV of 1860. "Provided that, for the purpose of this section, an offence punishable under section 379 of the Indian Penal Code shall be deemed to be an offence of the same kind as an offence punishable under section 380 of the said Code, and that an offence punishable under any section of the Indian Penal Code, or of any special or local law, shall be deemed to be an offence

XLV of 1860.

Code of Criminal Procedure [ACT XVIII
(*Amendment*).

of the same kind as an attempt to commit such offence, when such an attempt is an offence.”

Amendment
of section
237, Code of
Criminal
Procedure,
1898.

63. Sub-section (2) of section 237 of the said Code shall be omitted.

Amendment
of section
238, Code of
Criminal
Procedure,
1898.

64. After sub-section (2) of section 238 of the said Code the following sub-section shall be inserted, namely:—

“(2A) When a person is charged with an offence, he may be convicted of an attempt to commit such offence although the attempt is not separately charged.”

Substitution
of new section
for section
239, Code of
Criminal Pro-
cedure, 1898.

65. For section 239 of the said Code the following section shall be substituted, namely:—

What persons
may be
charged
jointly.

“239. The following persons may be charged and tried together, namely:—

- (a) persons accused of the same offence committed in the course of the same transaction;
- (b) persons accused of an offence and persons accused of abetment, or of an attempt to commit such offence;
- (c) persons accused of more than one offence of the same kind within the meaning of section 234 committed by them jointly within the period of twelve months;
- (d) persons accused of different offences committed in the course of the same transaction;
- (e) persons accused of an offence which includes theft, extortion, or criminal misappropriation, and persons accused of receiving or retaining, or assisting in the disposal or concealment of, property possession of which is alleged to have been transferred by any such offence committed

committed by the first-named persons,
or of abetment of or attempting to com-
mit any such last-named offence;

XLV of 1860.

(f) persons accused of offences under sections
411 and 414 of the Indian Penal
Code or either of those sections in
respect of stolen property the possession
of which has been transferred by one
offence; and

XLV of 1860

(g) persons accused of any offence under
Chapter XII of the Indian Penal Code
relating to counterfeit coin, and per-
sons accused of any other offence under
the said Chapter relating to the same
coin, or of abetment of or attempting to
commit any such offence;

and the provisions contained in the former part of
this Chapter shall, so far as may be, apply to all
such charges."

66. In section 243 of the said Code, for the
words "shall convict" the words "may convict"
shall be substituted.

Amendment
of section
243, Code of
Criminal
Procedure,
1898

67. In section 244 of the said Code,—

Amendment
of section
244, Code of
Criminal
Procedure,
1898.

(i) in sub-section (1), before the words "If
the accused" the words "If the Magistrate
does not convict the accused under the preceding
section or" shall be inserted, and to the same
sub-section the following proviso shall be added,
namely:—

"Provided that the Magistrate shall not be
bound to hear any person as complainant in any
case in which the complaint has been made by a
Court"; and

(ii) in sub-section (2), for the words "process
to compel the attendance of any witness or the
production of" the words "a summons to any
witness directing him to attend or to produce"
shall be substituted.

68. For

Code of Criminal Procedure [ACT XVIII
(*Amendment*).

Amendment
of section
245, Code of
Criminal
Procedure,
1898.

68. For sub-section (2) of section 245 of the said Code the following shall be substituted, namely :—

“(2) Where the Magistrate does not proceed in accordance with the provisions of section 349 or section 562, he shall, if he finds the accused guilty, pass sentence upon him according to law.”

Amendment
of section
250, Code of
Criminal
Procedure,
1898.

69. In section 250 of the said Code,—

(i) for sub-sections (1) and (2) the following sub-sections shall be substituted, namely :—

False, fri-
volous or
vexatious
accusations.

“(1) If, in any case instituted upon complaint or upon information given to a police-officer or to a Magistrate, one or more persons is or are accused before a Magistrate of any offence triable by a Magistrate, and the Magistrate by whom the case is heard discharges or acquits all or any of the accused, and is of opinion that the accusation against them or any of them was false and either frivolous or vexatious, the Magistrate may, by his order of discharge or acquittal, if the person upon whose complaint or information the accusation was made is present, call upon him forthwith to show cause why he should not pay compensation to such accused or to each or any of such accused when there are more than one, or, if such person is not present, direct the issue of a summons to him to appear and show cause as aforesaid.

(2) The Magistrate shall record and consider any cause which such complainant or informant may show, and if he is satisfied that the accusation was false and either frivolous or vexatious may, for reasons to be recorded, direct that compensation to such amount not exceeding one hundred rupees or, if the Magistrate is a Magistrate of the third class, not exceeding fifty rupees, as he may determine, be paid by such complainant or informant to the accused or to each or any of them.

(2A) The Magistrate may, by the order directing payment of the compensation under sub-section

section

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(Amendment).

section (2), further order that, in default of payment, the person ordered to pay such compensation shall suffer simple imprisonment for a period not exceeding thirty days.

(2B) When any person is imprisoned under sub-section (2A), the provisions of sections 68 and XLV of 1860. 69 of the Indian Penal Code shall, so far as may be, apply.

(2C) No person who has been directed to pay compensation under this section shall, by reason of such order, be exempted from any civil or criminal liability in respect of the complaint made or information given by him :

Provided that any amount paid to an accused person under this section shall be taken into account in awarding compensation to such person in any subsequent civil suit relating to the same matter ”;

(ii) in sub-section (3), for the word and figure “ sub-section (1)” the word and figure “ sub-section (2)” shall be substituted, and for the words “ to an accused person ” the following shall be substituted, namely :—

“ or has been so ordered by any other Magistrate to pay compensation exceeding fifty rupees ”;

(iii) to sub-section (4) after the words “ appeal has been decided ” the following shall be added, namely :—

“ and, where such order is made in a case which is not so subject to appeal, the compensation shall not be paid before the expiration of one month from the date of the order ”; and

(iv) sub-section (5) shall be omitted.

70. To sub-section (1) of section 252 of the said Code the following proviso shall be added, namely :—

Amendment
of section
252, Code of
Criminal
Procedure,
1898.

“ Provided that the Magistrate shall not be bound to hear any person as complainant in any case

Code of Criminal Procedure [ACT XVIII
(Amendment).

case in which the complaint has been made by a Court.”

Insertion of
new section
255A in the
Code of
Criminal
Procedure,
1898.

71. After section 255 of the said Code the following section shall be inserted, namely :—

Procedure in
case of pre-
vious convic-
tions.

“ 255A. In a case where a previous conviction is charged under the provisions of section 221, sub-section (7), and the accused does not admit that he has been previously convicted as alleged in the charge, the Magistrate may, after he has convicted the said accused under section 255, sub-section (2), or section 258, take evidence in respect of the alleged previous conviction, and shall record a finding thereon.”

Amendment
of section
256, Code of
Criminal
Procedure,
1898.

72. In sub-section (1) of section 256 of the said Code, after the words “ to state ” the words “ at the commencement of the next hearing of the case or, if the Magistrate for reasons to be recorded in writing so thinks fit, forthwith ” shall be inserted.

Amendment
of section
258, Code of
Criminal
Procedure,
1898.

73. For sub-section (2) of section 258 of the said Code the following sub-section shall be substituted, namely :—

“(2) Where in any case under this Chapter the Magistrate does not proceed in accordance with the provisions of section 349 or section 562, he shall, if he finds the accused guilty, pass sentence upon him according to law.”

Amendment
of section
259, Code of
Criminal
Procedure,
1898.

74. In section 259 of the said Code, after the words “ and the offence may be lawfully compounded ” the words “ or is not a cognizable offence ” shall be inserted.

Amendment
of section
261, Code of
Criminal
Procedure,
1898.

75. In section 261 of the said Code,—

(i) in clause (a), for the word and figures “ and 447,” the figures and word “ 447 and 504 ” shall be substituted; and

(ii) to clause (b), after the words “ one month,” the words “ with or without fine ” shall be added.

76. To

OF 1923.] *Code of Criminal Procedure*
(*Amendment*).

76. To section 266 of the said Code, after the words " for the purposes of this Chapter," the words " and of Chapter XVIII " shall be added.

Amendment of section 266, Code of Criminal Procedure, 1898.

77. In the third proviso to section 276 of the said Code, for the words " in the presidency-towns " the words " in a trial before any High Court in the town which is the usual place of sitting of such High Court " shall be substituted.

Amendment of section 276, Code of Criminal Procedure, 1898.

78. In section 288 of the said Code,—

Amendment of section 288, Code of Criminal Procedure, 1898.

(i) for the words " duly taken in the presence of the accused before the committing Magistrate " the words " duly recorded in the presence of the accused under Chapter XVIII " shall be substituted ; and

(ii) after the words " as evidence in the case," the words " for all purposes subject to the provisions of the Indian Evidence Act, 1872," shall be added.

1872.

79. For section 292 of the said Code the following section shall be substituted, namely :—

Substitution of new section for section 292, Code of Criminal Procedure, 1898.

" 292. The prosecutor shall be entitled to reply—

Prosecutor's right of reply.

(a) if the accused or any of the accused adduces any oral evidence; or

(b) with the permission of the Court, on a point of law; or

(c) with the permission of the Court, when any document which does not need to be proved is produced by any accused person after he enters on his defence :

Provided that, in the case referred to in clause (c), the reply shall, unless the Court otherwise permits, be restricted to comment on the document so produced."

80. In sub-section (2) of section 306 of the said Code, after the word " shall " where it occurs for the second time, the words " unless he proceeds in accordance

Amendment of section 306, Code of Criminal

Code of Criminal Procedure [ACT XVIII
(Amendment)].

Procedure, 1898. accordance with the provisions of section 562 " shall be inserted.

Amendment of section 307, Code of Criminal Procedure, 1898.

81. In section 307 of the said Code,—

(1) in sub-section (1)—

(i) for the words " the accused " the words " any accused person " shall be substituted;

(ii) after the words " to submit the case " the words " in respect of such accused person " shall be inserted; and

(iii) after the words " considers to have been committed," the following shall be added, namely:—

" and in such case, if the accused is further charged under the provisions of section 310, shall proceed to try him on such charge as if such verdict had been one of conviction "; and

(2) in sub-sections (2) and (3), for the words " the accused " wherever they occur, the words " such accused " shall be substituted.

Amendment of section 309, Code of Criminal Procedure, 1898.

82. In section 309 of the said Code,—

(i) in sub-section (1), after the word " orally " the following shall be inserted, namely:—

" on all the charges on which the accused has been tried," and after the words " such opinion " the following shall be inserted, namely:—

" and for that purpose may ask the assessors such questions as are necessary to ascertain what their opinions are. All such questions and the answers to them shall be recorded "; and

(ii) in sub-section (3), after the word " shall " the words " unless he proceeds in accordance with the provisions of section 562 " shall be inserted.

Substitution of new section for section 310, Code of Criminal Procedure, 1898.

83. For section 310 of the said Code the following section shall be substituted, namely:—

Procedure in case of previous conviction.

" 310. In the case of a trial by a jury or with the aid of assessors when the accused is charged with

an

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(Amendment).

an offence and further charged that he is by reason of a previous conviction liable to enhanced punishment or to punishment of a different kind for such subsequent offence, the procedure prescribed by the foregoing provisions of this Chapter shall be modified as follows, namely :—

(a) Such further charge shall not be read out in Court and the accused shall not be asked to plead thereto, nor shall the same be referred to by the prosecution, or any evidence adduced thereon unless and until,

(i) he has been convicted of the subsequent offence, or

(ii) the jury have delivered their verdict, or the opinions of the assessors have been recorded, on the charge of the subsequent offence.

(b) In the case of a trial held with the aid of assessors, the Court may, in its discretion, proceed or refrain from proceeding with the trial of the accused on the charge of the previous conviction."

84. In sub-section (1) of section 315 of the said Code, for the words "in each presidency-town" the words "in the town which is the usual place of sitting of each High Court" shall be substituted, and for the words "at least twenty-seven of those who are liable to serve on special juries, and fifty-four of those who are liable to serve on common juries," the words "as many of those who are liable to serve on special or common juries respectively as the Clerk of the Crown considers necessary" shall be substituted.

Amendment
of section
315, Code of
Criminal
Procedure,
1898

85. In section 316 of the said Code, for the words "presidency-towns" the words "town which is the usual place of sitting of such High Court" shall be substituted.

Amendment
of section
316, Code of
Criminal
Procedure,
1898.

86. In

Code of Criminal Procedure [ACT XVIII
(*Amendment*).

Amendment
of section
337, Code of
Criminal
Procedure,
1898.

86. In section 337 of the said Code,—

(i) for sub-section (1) the following sub-sections shall be substituted, namely :—

“(1) In the case of any offence triable exclusively by the High Court or Court of Session, or any offence punishable with imprisonment which may extend to ten years, or any offence punishable under section 211 of the Indian Penal Code with imprisonment which may extend to seven years, or any offence under any of the following sections of the Indian Penal Code, namely, sections 216A, 369, 401, 435 and 477A, the District Magistrate, a Presidency Magistrate, a Sub-divisional Magistrate or any Magistrate of the first class may, at any stage of the investigation or inquiry into, or the trial of the offence, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to the offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof : XLV of 1860. XLV of 1860.

Provided that, where the offence is under inquiry or trial, no Magistrate of the first class other than the District Magistrate shall exercise the power hereby conferred unless he is the Magistrate making the inquiry or holding the trial, and, where the offence is under investigation, no such Magistrate shall exercise the said power unless he is a Magistrate having jurisdiction in a place where the offence might be inquired into or tried and the sanction of the District Magistrate has been obtained to the exercise thereof.

(1A) Every Magistrate who tenders a pardon under sub-section (1) shall record his reasons for so doing, and shall, on application made by the accused, furnish him with a copy of such record :

Provided

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Provided that the accused shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost ”;

(ii) in sub-section (2), for the words “ the case ” the words “ the Court of the Magistrate taking cognizance of the offence and in the subsequent trial, if any,” shall be substituted;

(iii) after sub-section (2) the following sub-section shall be inserted, namely :—

“(2A) In every case where a person has accepted a tender of pardon and has been examined under sub-section (2), the Magistrate before whom the proceedings are pending shall, if he is satisfied that there are reasonable grounds for believing that the accused is guilty of an offence, commit him for trial to the Court of Session or High Court, as the case may be ”;

(iv) in sub-section (3), for the words “ if not on bail ” the words “ unless he is already on bail ” shall be substituted, and the words “ by the Court of Session or High Court, as the case may be,” shall be omitted; and

(v) sub-section (4) shall be omitted.

37. (1) In sub-section (1) of section 339 of the said Code, after the words and figures “ section 338, and ” the words “ the Public Prosecutor certifies that in his opinion ” shall be inserted; for the words “ he may be ” the words “ such person may be ” shall be substituted; and to the said sub-section the following proviso shall be added, namely :—

Amendment
of section
339, Code of
Criminal
Procedure,
1898.

“ Provided that such person shall not be tried jointly with any of the other accused, and that he shall be entitled to plead at such trial that he has complied with the conditions upon which such tender was made; in which case it shall be for the prosecution to prove that such conditions have not been complied with.”

(2) In sub-section (2) of the same section, for the words “ when the pardon has been forfeited under this section ” the words “ at such trial ” shall be substituted.

38. After

Code of Criminal Procedure [ACT XVIII
(Amendment)].

Insertion of
new section
339A in the
Code of
Criminal
Procedure,
1898.

Procedure in
trial of person
under section
339.

88. After section 339 of the said Code the following section shall be inserted, namely :—

“ 339A. (1) The Court trying under section 339 a person who has accepted a tender of pardon shall—

(a) if the Court is a High Court or Court of Session, before the charge is read out and explained to the accused under section 271, sub-section (1), and

(b) if the Court is the Court of a Magistrate, before the evidence of the witnesses for the prosecution is taken,

ask the accused whether he pleads that he has complied with the conditions on which the tender of the pardon was made.

(2) If the accused does so plead, the Court shall record the plea and proceed with the trial, and the jury, or the Court with the aid of the assessors, or the Magistrate, as the case may be, shall, before judgment is passed in the case, find whether or not the accused has complied with the conditions of the pardon, and, if it is found that he has so complied, the Court shall, notwithstanding anything contained in this Code, pass judgment of acquittal.”

Substitution
of new sec-
tion for sec-
tion 340, Code
of Criminal
Procedure,
1898.

89. For section 340 of the said Code the following section shall be substituted, namely :—

Right of per-
son against
whom pro-
ceedings are
instituted to
be defended
and his com-
petency to be
a witness.

“ 340. (1) Any person accused of an offence before a Criminal Court, or against whom proceedings are instituted under this Code in any such Court, may of right be defended by a pleader.

(2) Any person against whom proceedings are instituted in any such Court under section 107, or under Chapter X, Chapter XI, Chapter XII or Chapter

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Chapter XXXVI, or under section 552, may offer himself as a witness in such proceedings."

90. In section 345 of the said Code,—

Amendment
of section
345, Code of
Criminal Procedure,
1898.

(i) in sub-section (1), for the word "described" the word "specified" shall be substituted, and to the table in that sub-section, after the entry relating to criminal intimidation, the following entry shall be added, namely:—

Act caused by making a person believe that he will be an object of divine displeasure.	508	The person against whom the offence was committed.
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(ii) for sub-section (2) the following sub-section shall be substituted, namely:—

XLV of 1860. (2) The offences punishable under the sections of the Indian Penal Code specified in the first two columns of the table next following may, with the permission of the Court before which any prosecution for such offence is pending, be compounded by the persons mentioned in the third column of that table:—

Offence.	Sections of the Indian Penal Code applicable.	Persons by whom offence may be compounded.
Voluntarily causing hurt by dangerous weapons or means.	324	The person to whom hurt is caused.
Voluntarily causing grievous hurt . . .	325	Ditto.
Voluntarily causing grievous hurt on grave and sudden provocation.	335	Ditto.
Causing hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	337	Ditto.
Causing grievous hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	338	Ditto.
Wrongfully confining a person for three days or more.	343	The person confined.
Wrongfully confining a person in secret . . .	346	Ditto.
Assault or criminal force in attempting wrongfully to confine a person.	357	The person assaulted or to whom the force was used.
Dishonest misappropriation of property . . .	408	The owner of the property misappropriated.
Cheating	417	The person cheated.
Cheating a person whose interest the offender was bound, by law or by legal contract, to protect.	418	Ditto.
Cheating by personation . . .	419	Ditto.
Cheating and dishonestly inducing delivery of property or the making, alteration or destruction of a valuable security.	420	Ditto.
Mischief by injury to work of irrigation by wrongfully diverting water when the only loss or damage caused is loss or damage to a private person.	430	The person to whom the loss or damage is caused.

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Offence.	Sections of the Indian Penal Code applicable.	Persons by whom offence may be compounded.
House-trespass to commit an offence (other than theft) punishable with imprisonment.	451	The person in possession of the house trespassed upon.
Using a false trade or property mark .	482	The person to whom loss or injury is caused by such use.
Counterfeiting a trade or property mark used by another.	483	The person whose trade or property mark is counterfeited.
Knowingly selling, or exposing or possessing for sale or for trade or manufacturing purpose, goods marked with a counterfeited trade or property mark.	486	Ditto.
Marrying again during the lifetime of a husband or wife.	494	The husband or wife of the person so marrying.
Uttering words or sounds or making gestures or exhibiting any object intending to insult the modesty of a woman or intruding upon the privacy of a woman.	509	The woman whom it is intended to insult or whose privacy is intruded upon.

(iii) in sub-section (4), for the words “ a minor ” the words “ under the age of eighteen years or is ” shall be substituted, and after the word “ may ” the words “ with the permission of the Court ” shall be inserted;

(iv) after sub-section (5) the following sub-section shall be inserted, namely:—

“(5A) A High Court acting in the exercise of its powers of revision under section 439 may allow any person to compound any offence which he is competent to compound under this section”; and

(v) to sub-section (6), after the word “ accused ” the words “with whom the offence has been compounded ” shall be added.

Amendment of section 347, Code of Criminal Procedure, 1898.

91. In sub-section (1) of section 347 of the said Code, the words “ stop further proceedings and ” shall be omitted.

Amendment of section 348, Code of Criminal Procedure, 1898.

92. (1) Section 348 of the said Code shall be re-numbered 348 (1), and in the said section, as re-numbered, after the word “ shall ” the words “ if the Magistrate before whom the case is pending is satisfied that there are sufficient grounds for committing the accused ” shall be inserted, and for the words “ before whom the proceedings are pending ” the

the words “ is competent to try the case and ” shall be substituted.

(2) In the proviso to the same section, as re-numbered, for the words “ the District Magistrate ” the words “ any Magistrate in the district ” shall be substituted.

(3) To the same section, as re-numbered, the following sub-section shall be added, namely :—

“(2) When any person is committed to the Court of Session or High Court under sub-section (1), any other person accused jointly with him in the same inquiry or trial shall be similarly committed, unless the Magistrate discharges such other person under section 209.”

93. After sub-section (1) of section 349 the following sub-section shall be inserted, namely :—

Amendment of section 349, Code of Criminal Procedure, 1898.

“(1A) When more accused than one are being tried together, and the Magistrate considers it necessary to proceed under sub-section (1) in regard to any of such accused, he shall forward all the accused who are in his opinion guilty to the District Magistrate or Sub-divisional Magistrate.”

94. To sub-section (2) of section 350 of the said Code, after the figures “ 346 ”, the words “ or in which proceedings have been submitted to a superior Magistrate under section 349 ” shall be added, and after the same sub-section the following sub-section shall be added, namely :—

Amendment of section 350, Code of Criminal Procedure, 1898.

“(3) When a case is transferred under the provisions of this Code from one Magistrate to another, the former shall be deemed to cease to exercise jurisdiction therein and to be succeeded by the latter within the meaning of sub-section (1).”

95. After section 350 of the said Code the following section shall be inserted, namely :—

Insertion of new section 350A in the Code of Criminal Procedure, 1898.

“ 350A. No order or judgment of a Bench of Magistrates shall be invalid by reason only of a change

Changes in constitution of Benches.

Code of Criminal Procedure [ACT XVIII
(*Amendment*).

change having occurred in the constitution of the Bench in any case in which the Bench by which such order or judgment is passed is duly constituted under sections 15 and 16, and the Magistrates constituting the same have been present on the Bench throughout the proceedings.

Amendment
of section
356, Code of
Criminal
Procedure,
1898.

96. In section 356 of the said Code, after sub-section (2), the following sub-section shall be inserted, namely :—

“(2A) When the evidence of such witness is given in any other language, not being English, than the language of the Court, the Magistrate or Sessions Judge may take it down in that language with his own hand, or cause it to be taken down in that language in his presence and hearing and under his personal direction and superintendence, and an authenticated translation of such evidence in the language of the Court or in English shall form part of the record.”

Amendment
of section
362, Code of
Criminal
Procedure,
1898.

97. In section 362 of the said Code,—

(i) in sub-section (1), for the words “ in which a Presidency Magistrate imposes a fine exceeding two hundred rupees, or imprisonment for a term exceeding six months, he ” the words “ tried by a Presidency Magistrate in which an appeal lies, such Magistrate ” shall be substituted;

(ia) after sub-section (2) the following sub-section shall be inserted :—

“(2A) In every case referred to in sub-section (1), the Magistrate shall make a memorandum of the substance of the examination of the accused. Such memorandum shall be signed by the Magistrate with his own hand, and shall form part of the record ”;

(ii) to sub-section (3), after the word “ sentence ” the words “ unless they are sentences of imprisonment ordered to run concurrently ” shall be added; and

(iii) after

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(iii) after sub-section (3) the following sub-section shall be added, namely :—

“(4) In cases other than those specified in sub-section (1), it shall not be necessary for a Presidency Magistrate to record the evidence or frame a charge.”

98. In sub-section (4) of section 364 of the said Code, after the figures “ 263 ” the words and figures “ or section 362, sub-section (2A), ” shall be inserted.

Amendment of section 364, Code of Criminal Procedure, 1898.

99. In section 365 of the said Code, for the word “ may ” the word “ shall ” shall be substituted, and for the words “ and the Judges of such Court shall take down the evidence or the substance thereof in accordance with the rule (if any) so prescribed ” the words “ and the evidence shall be taken down in accordance with such rule ” shall be substituted.

Amendment of section 365, Code of Criminal Procedure, 1898.

100. In section 367 of the said Code,—

Amendment of section 367, Code of Criminal Procedure, 1898.

(i) in sub-section (1), after the words “ presiding officer of the Court ” the words “ or from the dictation of such presiding officer ” shall be inserted;

(ii) to the same sub-section the following words shall be added, namely :—

“ and where it is not written by the presiding officer with his own hand, every page of such judgment shall be signed by him ”; and

(iii) after sub-section (5) the following sub-section shall be added, namely :—

“(6) For the purposes of this section, an order under section 118 or section 123, sub-section (3), shall be deemed to be a judgment.”

101. In section 369 of the said Code, for the words “ No Court other than a High Court ” the words “ Save as otherwise provided by this Code or by any other law for the time being in force or, in the case of a High Court established by Royal Charter, by the Letters Patent of such High Court, no Court ” shall be substituted; and the words

Amendment of section 369, Code of Criminal Procedure, 1898.

Code of Criminal Procedure [ACT XVIII
(*Amendment*).

words and figures “ as provided in sections 395 and 484 or ” shall be omitted.

Substitution
of new
section for
section 386,
Code of
Criminal
Procedure,
1898.
Warrant for
levy of fine.

102. For section 386 of the said Code the following section shall be substituted, namely :—

“ 386. (1) Whenever an offender has been sentenced to pay a fine, the Court passing the sentence may take action for the recovery of the fine in either or both of the following ways, that is to say, it may—

(a) issue a warrant for the levy of the amount by attachment and sale of any moveable property belonging to the offender;

(b) issue a warrant to the Collector of the District authorising him to realise the amount by execution according to civil process against the moveable or immoveable property, or both, of the defaulter :

Provided that, if the sentence directs that in default of payment of the fine the offender shall be imprisoned, and if such offender has undergone the whole of such imprisonment in default, no Court shall issue such warrant unless for special reasons to be recorded in writing it considers it necessary to do so.

(2) The Local Government may make rules regulating the manner in which warrants under sub-section (1), clause (a), are to be executed, and for the summary determination of any claims made by any person other than the offender in respect of any property attached in execution of such warrant.

(3) Where the Courts issue a warrant to the Collector under sub-section (1), clause (b), such warrant shall be deemed to be a decree, and the Collector to be the decree-holder, within the meaning of the Code of Civil Procedure, 1908, and the nearest Civil Court by which any decree for a like amount could be executed shall, for the purposes of the said Code, be deemed to be the Court which
passed

v of 1908.

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passed the decree, and all the provisions of that Code as to execution of decrees shall apply accordingly :

Provided that no such warrant shall be executed by the arrest or detention in prison of the offender."

103. In section 387 of the said Code, for the words " Such warrant " the words " A warrant issued under section 386, sub-section (1), clause (a), by any Court " shall be substituted, and for the word " distress " the word " attachment " shall be substituted.

Amendment of section 387, Code of Criminal Procedure, 1898.

104. In sub-section (1) of section 388 of the said Code,—

Amendment of section 388, Code of Criminal Procedure, 1898. §

(i) for the words " and the Court issues a warrant under section 386, it " the words " the Court " shall be substituted; and

(ii) for the words " on the day appointed for the return to such warrant, such day not being " the words " on a date not " shall be substituted.

105. In section 395 of the said Code,—

Amendment of section 395, Code of Criminal Procedure, 1898.

(i) in sub-section (1), after the words " twelve months " the words " or to a fine not exceeding five hundred rupees " shall be inserted; and

(ii) in sub-section (2), after the words " for a term " the words " or a fine of an amount " shall be inserted.

106. In section 397 of the said Code,—

Amendment of section 397, Code of Criminal Procedure, 1898. ,

(i) after the words " to which he has been previously sentenced " the words " unless the Court directs that the subsequent sentence shall run concurrently with such previous sentence " shall be inserted; and

(ii) after the proviso the following further proviso shall be added, namely :—

"Provided, further, that where a person who has been sentenced to imprisonment by an order under section 123 in default of furnishing security is, whilst undergoing such sentence, sentenced to imprisonment for an offence committed prior to the making of such order, the latter sentence shall commence immediately."

107. In

Code of Criminal Procedure [ACT XVIII
(Amendment).

Amendment
of section
401, Code of
Criminal
Procedure,
1898.

107. In section 401 of the said Code,—

(i) to sub-section (2), after the words “together with his reasons for such opinion” the following words shall be added, namely:—

“and also to forward with the statement of such opinion a certified copy of the record of the trial or of such record thereof as exists”;

(ii) after sub-section (4) the following sub-section shall be inserted, namely:—

“(4A) The provisions of the above sub-sections shall also apply to any order passed by a Criminal Court under any section of this Code or of any other law, which restricts the liberty of any person or imposes any liability upon him or his property”;

(iii) in sub-section (5), for the words “Her Majesty” the words “His Majesty or of the Governor General when such right is delegated to him” shall be substituted; and

(iv) after sub-section (5) the following sub-section shall be inserted, namely:—

“(5A) Where a conditional pardon is granted by His Majesty or, in virtue of any powers delegated to him, by the Governor General, any condition thereby imposed, of whatever nature, shall be deemed to have been imposed by a sentence of a competent Court under this Code and shall be enforceable accordingly”.

Amendment
of section
402, Code of
Criminal
Procedure,
1898.

108. Section 402 of the said Code shall be re-numbered section 402 (1), and, to the said section, as re-numbered, the following sub-section shall be added, namely:—

“(2) Nothing in this section shall affect the provisions of section 54 or section 55 of the Indian XLV of 1860. Penal Code.”

Substitution
of new section
for section
406, Code of
Criminal
Procedure,
1898.

109. For section 406 of the said Code the following section shall be substituted, namely:—

Appeal from
order
requiring
security for

“406. Any person who has been ordered under section 118 to give security for keeping the peace

or

OF 1923.] *Code of Criminal Procedure*
(*Amendment*).

or for good behaviour may appeal against such order—

- (a) if made by a Presidency Magistrate, to the High Court;
- (b) if made by any other Magistrate, to the Court of Session :

keeping the peace or for good behaviour.

Provided that the Local Government may, by notification in the local official Gazette, direct that in any district specified in the notification appeals from such orders made by a Magistrate other than the District Magistrate or a Presidency Magistrate shall lie to the District Magistrate and not to the Court of Session :

Provided, further, that nothing in this section shall apply to persons the proceedings against whom are laid before a Sessions Judge in accordance with the provisions of sub-section (2) or sub-section (3A) of section 123."

110. After section 406 of the said Code the following section shall be inserted, namely:—

Insertion of new section 406A in the Code of Criminal Procedure, 1898.

" 406A. Any person aggrieved by an order refusing to accept or rejecting a surety under section 122 may appeal against such order,—

Appeal from order refusing to accept or rejecting a surety.

- (a) if made by a Presidency Magistrate, to the High Court;
- (b) if made by the District Magistrate, to the Court of Session; or
- (c) if made by a Magistrate other than the District Magistrate, to the District Magistrate."

111. In sub-section (1) of section 407 of the said Code, after the figures " 349," the words and figures " or in respect of whom an order has been made or a sentence has been passed under section 380 " shall be inserted.

Amendment of section 407, Code of Criminal Procedure, 1898.

112. In

Code of Criminal Procedure [ACT XVIII
(Amendment).

Amendment
of section
408, Code of
Criminal
Procedure,
1898.

112. In section 408 of the said Code,—

(i) after the figures “349” the words and figures “or in respect of whom an order has been made or a sentence has been passed under section 380” shall be inserted; and

(ii) in clause (b) of the proviso, after the word “appeal” the following words shall be inserted, namely:—

“of all or any of the accused convicted at such trial.”

Amendment
of section
409, Code of
Criminal
Procedure,
1898.

113. To section 409 of the said Code the following proviso shall be added, namely:—

“Provided that an Additional Sessions Judge shall hear only such appeals as the Local Government may, by general or special order, direct or as the Sessions Judge of the division may make over to him.”

Insertion of
new section
415A in the
Code of
Criminal
Procedure,
1898.

114. After section 415 of the said Code the following section shall be inserted, namely:—

Special right
of appeal in
certain cases.

“415A. Notwithstanding anything contained in this Chapter, when more persons than one are convicted in one trial, and an appealable judgment or order has been passed in respect of any of such persons, all or any of the persons convicted at such trial shall have a right of appeal.”

Amendment
of section
418, Code of
Criminal
Procedure,
1898.

115. Section 418 of the said Code shall be re-numbered section 418 (1), and, to the said section as re-numbered, the following sub-section shall be added, namely:—

“(2) Notwithstanding anything contained in sub-section (1) or in section 423, sub-section (2), when, in the case of a trial by jury, any person is sentenced to death, any other person convicted in the same trial with the person so sentenced may appeal on a matter of fact as well as a matter of law.”

116. In

OF 1923.] *Code of Criminal Procedure*
(*Amendment*).

116. In section 435 of the said Code,—

Amendment
of section
435, Code of
Criminal
Procedure,
1898.

(i) to sub-section (1), after the words “ proceed-
ings of such inferior Court,” the following words
shall be added, namely :—

“ and may, when calling for such record, direct
that the execution of any sentence be suspended
and, if the accused is in confinement, that he be
released on bail or on his own bond pending the
examination of the record ”;

(ii) after the same sub-section the following
Explanation shall be added, namely :—

“ *Explanation.*—All Magistrates. whether exer-
cising original or appellate jurisdiction, shall be
deemed to be inferior to the Sessions Judge for the
purposes of this sub-section and of section 437;”
and

(iii) sub-section (3) shall be omitted.

117. Sections 436 and 437 of the said Code shall
be re-numbered 437 and 436, respectively, and, in
the latter section, as re-numbered,—

Transposition
of sections
436 and 437
and amend-
ment of sec-
tion 437, Cod
of Criminal
Procedure,
1898.

(a) for the words “ accused person ” the words
“ person accused of an offence ” shall be substituted;
and

(b) after the word “ discharged ” the following
proviso shall be added, namely :—

“ Provided that no Court shall make any direc-
tion under this section for inquiry into the case of
any person who has been discharged unless such
person has had an opportunity of shewing cause
why such direction should not be made.”

118. In sub-section (2) of section 438 of the said
Code, for the words “ by the Sessions Judge ” the
words “ by or under any general or special order of
the Sessions Judge ” shall be substituted.

Amendment
of section
438, Code of
Criminal
Procedure,
1898.

119. In sub-section (1) of section 439 of the said
Code, the figures “ 195 ” shall be omitted, and after
sub-section (5) of the same section the following sub-
section shall be added, namely :—

Amendment
of section
439, Code of
Criminal
Procedure,
1898.

“ (6) Notwithstanding anything contained in
this section, any convicted person to
whom

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whom an opportunity has been given under sub-section (2) of showing cause why his sentence should not be enhanced shall, in showing cause, be entitled also to show cause against his conviction."

Amendment
of section
464, Code of
Criminal
Procedure,
1898.

120. In section 464 of the said Code,—

(i) after sub-section (1) the following sub-section shall be inserted, namely :—

" (1A) Pending such examination and inquiry, the Magistrate may deal with the accused in accordance with the provisions of section 466 "; and

(ii) in sub-section (2), after the word " he " the words " shall record a finding to that effect and " shall be inserted.

Amendment
of section
465, Code of
Criminal
Procedure,
1898.

121. In sub-section (1) of section 465 of the said Code, for the words " and, if satisfied of the fact, shall pass judgment accordingly, and thereupon the trial shall be postponed." the following words shall be substituted, namely :—

" and if the jury or Court, as the case may be, is satisfied of the fact, the Judge shall record a finding to that effect, and shall postpone further proceedings in the case and the jury, if any, shall be discharged."

Amendment
of section
466, Code of
Criminal
Procedure,
1898.

122. In section 466 of the said Code,—

(i) in sub-section (1), for the words " if the case is one in which bail may be taken," the words " whether the case is one in which bail may be taken or not" shall be substituted; and

(ii) for sub-section (2) the following sub-section shall be substituted, namely :—

Custody of
lunatic.

" (2) If the case is one in which, in the opinion of the Magistrate or Court, bail should not be taken, or if sufficient security is not given, the Magistrate or Court, as the case may be, shall order the accused to be detained in safe custody in such place and manner as he or it may think fit, and shall report the action taken to the Local Government :

Provided

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(*Amendment*).

V of 1912. Provided that no order for the detention of the accused in a lunatic asylum shall be made otherwise than in accordance with such rules as the Local Government may have made under the Indian Lunacy Act, 1912."

123. In sub-section (2) of section 468 of the said Code, the word " person " shall be omitted, and the following words shall be added after the words " as the case may be." namely :— Amendment of section 468, Code of Criminal Procedure, 1898.

" and if the accused is found to be of unsound mind and incapable of making his defence, shall deal with such accused in accordance with the provisions of section 466."

124. (1) In sub-section (1) of section 471 of the said Code,— Amendment of section 471, Code of Criminal Procedure, 1898.

(i) for the words " such judgment " the words " the finding " shall be substituted;

(ii) for the word " kept " the word " detained " shall be substituted; and

(iii) after the words " Court thinks fit," the words " and shall report the action taken to the Local Government " shall be inserted.

(2) After sub-section (1) of the same section the following proviso shall be inserted, namely :—

V of 1912. "Provided that no order for the detention of the accused in a lunatic asylum shall be made otherwise than in accordance with such rules as the Local Government may have made under the Indian Lunacy Act, 1912."

(3) Sub-section (4) of the same section shall be re-numbered (2).

125. In section 473 of the said Code, for the word " confined " the word " detained " shall be substituted, and for the words " such Inspector-General or visitors " the words " in the case of a person detained in a jail, the Inspector-General of Prisons, or, in the case of a person detained in a lunatic asylum, the visitors of such asylum, or any two of them " shall be substituted. Amendment of section 473, Code of Criminal Procedure, 1898.

Code of Criminal Procedure [ACT XVIII
(Amendment)].

Amendment
of section
474, Code of
Criminal
Procedure,
1898.

126. In section 474 of the said Code, for the word “ confined ” the word “ detained ” shall be substituted, and for the words “ discharged ” (wherever it occurs) and “ discharge ” the words “ released ” and “ release ”, respectively, shall be substituted.

Substitution
of new sec-
tion for sec-
tion 475,
Code of
Criminal
Procedure,
1898.

127. For section 475 of the said Code the follow-
ing section shall be substituted, namely :—

Delivery of
lunatic to
care of rela-
tive or
friend.

“ 475. (1) Whenever any relative or friend of any person detained under the provisions of section 466 or section 471 desires that he shall be delivered to his care and custody, the Local Government may, upon the application of such relative or friend and on his giving security to the satisfaction of such Local Government that the person delivered shall—

- (a) be properly taken care of and prevented from doing injury to himself or to any other person, and
- (b) be produced for the inspection of such officer, and at such times and places, as the Local Government may direct, and
- (c) in the case of a person detained under section 466, be produced when required before such Magistrate or Court,

order such person to be delivered to such relative or friend.

(2) If the person so delivered is accused of any offence the trial of which has been postponed by reason of his being of unsound mind and incapable of making his defence, and the inspecting officer referred to in sub-section (1), clause (b), certifies at any time to the Magistrate or Court that such person is capable of making his defence, such Magistrate or Court shall call upon the relative or friend to whom such accused was delivered to produce him before the Magistrate or Court; and, upon such production

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(Amendment).

production, the Magistrate or Court shall proceed in accordance with the provisions of section 468, and the certificate of the inspecting officer shall be receivable as evidence."

128. For section 476 of the said Code the following sections shall be substituted, namely :—

Substitution of new sections for section 476, Code of Criminal Procedure, 1898.

" 476. (1) When any Civil, Revenue or Criminal Court is, whether on application made to it in this behalf or otherwise, of opinion that it is expedient in the interests of justice that an inquiry should be made into any offence referred to in section 195, sub-section (1), clause (b) or clause (c), which appears to have been committed in or in relation to a proceeding in that Court, such Court may, after such preliminary inquiry, if any, as it thinks necessary, record a finding to that effect and make a complaint thereof in writing signed by the presiding officer of the Court, and shall forward the same to a Magistrate of the first class having jurisdiction, and may take sufficient security for the appearance of the accused before such Magistrate or if the alleged offence is non-bailable may, if it thinks necessary so to do, send the accused in custody to such Magistrate, and may bind over any person to appear and give evidence before such Magistrate.

Procedure in cases mentioned in section 195.

For the purposes of this sub-section, a Chief Presidency Magistrate shall be deemed to be a Magistrate of the first class.

(2) Such Magistrate shall thereupon proceed according to law and as if upon complaint made under section 200.

(3) Where it is brought to the notice of such Magistrate, or of any other Magistrate to whom the case may have been transferred, that an appeal is pending against the decision arrived at in the judicial proceeding out of which the matter has arisen, he may, if he thinks fit, at any stage

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(Amendment)].

adjourn the hearing of the case until such appeal is decided.

Superior Court may complain; where subordinate Court has omitted to do so.

476A. The power conferred on Civil, Revenue and Criminal Courts by section 476, sub-section (1), may be exercised, in respect of any offence referred to therein and alleged to have been committed in or in relation to any proceeding in any such Court, by the Court to which such former Court is subordinate within the meaning of section 195, sub-section (3), in any case in which such former Court has neither made a complaint under section 476 in respect of such offence nor rejected an application for the making of such complaint; and, where the superior Court makes such complaint, the provisions of section 476 shall apply accordingly.

Appeals.

476B. Any person on whose application any Civil, Revenue or Criminal Court has refused to make a complaint under section 476 or section 476A, or against whom such a complaint has been made, may appeal to the Court to which such former Court is subordinate within the meaning of section 195, sub-section (3), and the superior Court may thereupon, after notice to the parties concerned, direct the withdrawal of the complaint or, as the case may be, itself make the complaint which the subordinate Court might have made under section 476, and, if it makes such complaint, the provisions of that section shall apply accordingly."

Repeal of section 477, Code of Criminal Procedure, 1898.

129. Section 477 of the said Code shall be omitted.

Amendment of section 487, Code of Criminal Procedure, 1898.

130. In section 487 of the said Code, the figures " 477 " shall be omitted.

Amendment of section 488, Code of Criminal Procedure, 1898.

131. In section 488 of the said Code,—

(i) in sub-section (1), for the word " fifty " the words " one hundred " shall be substituted;

(ii) in sub-section (3), for the words " wilfully neglects " the words " fails without sufficient cause " shall be substituted;

(iii) to

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(Amendment).

(iii) to the same sub-section the following proviso shall be added, namely :—

“Provided, further, that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Court to levy such amount within a period of one year from the date on which it became due ”;

(iv) sub-section (7) shall be omitted; and

(v) sub-sections (8) and (9) shall be re-numbered (7) and (8), respectively, and, in the last-named sub-section, for the words “ The accused may be proceeded against ” the words “ Proceedings under this section may be taken against any person ” shall be substituted.

132. (1) Section 489 of the said Code shall be re-numbered as sub-section (1) of section 489 and, in that sub-section, as re-numbered, for the word “ fifty ” the words “ one hundred ” shall be substituted.

Amendment of section 489, Code of Criminal Procedure, 1898.

(2) To the same section the following sub-section shall be added, namely :—

“(2) Where it appears to the Magistrate that, in consequence of any decision of a competent Civil Court, any order made under section 488 should be cancelled or varied, he shall cancel the order or, as the case may be, vary the same accordingly.”

133. (1) In sub-section (2) of section 492 of the said Code, the words “ In any case committed for trial to the Court of Session ” shall be omitted, and for the words “ such case ” the words “ any case ” shall be substituted.

Amendment of section 492, Code of Criminal Procedure, 1898.

(2) In the same sub-section, for the words “ the rank of Assistant District Superintendent ” the words “ such rank as the Local Government may prescribe in this behalf ” shall be substituted.

134. In section 494 of the said Code,—

(1) the words “ appointed by the Governor General in Council or the Local Government ” shall be omitted;

Amendment of section 494, Code of Criminal Procedure, 1898.

(ii) after

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(Amendment).

(ii) after the words “prosecution of any person” the words “either generally or in respect of any one or more of the offences for which he is tried” shall be inserted;

(iii) after the word “discharged” in clause (a), the words “in respect of such offence or offences” shall be inserted; and

(iv) after the word “acquitted” in clause (b), the words “in respect of such offence or offences” shall be added.

Amendment
of section
496, Code of
Criminal
Procedure,
1898.

135. To section 496 of the said Code the following proviso shall be added, namely:—

“Provided, further, that nothing in this section shall be deemed to affect the provisions of section 107, sub-section (4), or section 117, sub-section (3).”

Amendment
of section
497, Code of
Criminal
Procedure,
1898.

136. In section 497 of the said Code,—

(i) in sub-section (1), for the words “the offence of which he is accused” the words “an offence punishable with death or transportation for life” shall be substituted; and to the same sub-section the following proviso shall be added, namely:—

“Provided that the Court may direct that any person under the age of sixteen years or any woman or any sick or infirm person accused of such an offence be released on bail”;

(ii) in sub-section (2), for the words “such offence” the words “a non-bailable offence” shall be substituted;

(iii) after sub-section (2) the following sub-sections shall be inserted, namely:—

“(3) An officer or a Court releasing any person on bail under sub-section (1) or sub-section (2) shall record in writing his or its reasons for so doing.

(4) If, at any time after the conclusion of the trial of a person accused of a non-bailable offence and before judgment is delivered, the Court is of opinion that there are reasonable grounds for believing that the accused is not guilty of any such offence, it shall release the accused, if he is in custody, on the execution by him of a bond without sureties

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sureties for his appearance to hear judgment delivered.”; and

(iv) for sub-section (3) the following sub-section shall be substituted, namely :—

“(5) A High Court or Court of Session and, in the case of a person released by itself, any other Court may cause any person who has been released under this section to be arrested and may commit him to custody.”

137. (1) In sub-section (1) of section 504 of the said Code, for the words “the said Presidency Magistrate” the words “such Presidency Magistrate” shall be substituted.

Amendment of section 504, Code of Criminal Procedure, 1898.

(2) After the same sub-section the following sub-section shall be inserted, namely :—

“(1A) When a commission is issued under this section to a Chief Presidency Magistrate, he may delegate his powers and duties under the commission to any Presidency Magistrate subordinate to him.”

138. In sub-section (1) of section 505 of the said Code, after the word “directed” the words “or to whom the duty of executing such commission has been delegated” shall be inserted.

Amendment of section 505, Code of Criminal Procedure, 1898.

139. In section 514 of the said Code,—

(i) in sub-section (3), for the word “distress” the word “attachment” shall be substituted; and

Amendment of section 514, Code of Criminal Procedure, 1898.

(ii) in sub-section (6), the words “but the party who gave the bond may be required to find a new surety” shall be omitted, and, after the said sub-section, the following sub-section shall be inserted, namely :—

“(7) When any person who has furnished security under section 106 or section 118 or section 562 is convicted of an offence the commission of which constitutes a breach of the conditions of his bond, or of a bond executed in lieu of his bond under section 514B, a certified copy of the judgment of the Court by which he was convicted of such offence may be used as evidence in proceedings under this section against his surety or sureties, and, if such certified

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(Amendment)].

copy is so used, the Court shall presume that such offence was committed by him unless the contrary is proved."

Insertion of new sections 514A and 514B in the Code of Criminal Procedure, 1898.

140. After section 514 of the said Code the following sections shall be inserted, namely :—

Procedure in case of insolvency or death of surety or when a bond is forfeited.

" 514A. When any surety to a bond under this Code becomes insolvent or dies, or when any bond is forfeited under the provisions of section 514, the Court, by whose order such bond was taken, or a Presidency Magistrate or Magistrate of the first class, may order the person from whom such security was demanded to furnish fresh security in accordance with the directions of the original order, and, if such security is not furnished, such Court or Magistrate may proceed as if there had been a default in complying with such original order.

Bond required from a minor.

514B. When the person required by any Court or officer to execute a bond is a minor, such Court or officer may accept, in lieu thereof, a bond executed by a surety or sureties only."

Insertion of new section 516A in the Code of Criminal Procedure, 1898.

141. In Chapter XLIII of the said Code, before section 517 the following section shall be inserted, namely :—

Order for custody and disposal of property pending trial in certain cases.

" 516A. When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before any Criminal Court during any inquiry or trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the inquiry or trial, and, if the property is subject to speedy or natural decay, may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of."

Amendment of section 517, Code of Criminal Procedure, 1898.

142. In section 517 of the said Code,—
(i) in sub-section (1), after the word " disposal " the words " by destruction, confiscation, or delivery to

to any person claiming to be entitled to possession thereof or otherwise " shall be inserted;

(ii) for sub-section (3) the following sub-section shall be substituted, namely :—

" (3) When an order is made under this section such order shall not, except where the property is livestock or subject to speedy and natural decay, and save as provided by sub-section (4), be carried out for one month, or, when an appeal is presented, until such appeal has been disposed of "; and

(iii) after sub-section (3) the following sub-section shall be inserted, namely :—

" (4) Nothing in this section shall be deemed to prohibit any Court from delivering any property under the provisions of sub-section (1) to any person claiming to be entitled to the possession thereof, on his executing a bond with or without sureties to the satisfaction of the Court, engaging to restore such property to the Court if the order made under this section is modified or set aside on appeal."

143. In section 522 of the said Code,—

Amendment
of section
522, Code of
Criminal
Procedure,
1898.

(i) in sub-section (1), after the word " force " where it first occurs, the words " or show of force or by criminal intimidation " shall be inserted, and after the word " force," where it occurs for the second time, the words " or show of force or criminal intimidation " shall be inserted, and for the words " such person " the words " the person dispossessed " shall be substituted;

(ii) in the same sub-section, after the words " thinks fit " the words " when convicting such person or at any time within one month from the date of the conviction " shall be inserted; and

(iii) after sub-section (2) the following sub-section shall be added, namely :—

" (3) An order under this section may be made by any Court of appeal, confirmation, reference or revision."

144. In section 525 of the said Code, for the words " or the Magistrate " the words " or if the Magistrate " shall be substituted, and after the word

Amendment
of section
525, Code of
Criminal

Code of Criminal Procedure [ACT XVIII
(*Amendment*)].

Procedure,
1898.

Amendment
of section
526, Code of
Criminal
Procedure,
1898.

word “ owner ” the words “ or that the value of such property is less than ten rupees ” shall be inserted.

145. In section 526 of the said Code,—

(i) in sub-clauses (ii) and (iii) of sub-section (1), the word “ criminal ” before the word “ case,” and in sub-clause (ii), the word “ such ” before the word “ cases,” shall be omitted;

(ii) in sub-section (5), for the word “ convicted ” the words “ so ordered ” shall be substituted, and for the words “ the costs of the prosecutor ” the words “ any amount which the High Court has power under this section to award by way of costs to the person opposing the application ” shall be substituted;

(iii) after sub-section (6) the following sub-section shall be inserted, namely :—

“(6A) Where any application for the exercise of the power conferred by this section is dismissed, the High Court may, if it is of opinion that the application was frivolous or vexatious, order the applicant to pay by way of costs to any person who has opposed the application any expenses reasonably incurred by such person in consequence of the application ”; and

(iv) for sub-section (8) the following sub-sections shall be substituted, namely :—

“(8) If, in the course of any inquiry or trial, or before the commencement of the hearing of any appeal, the Public Prosecutor, the complainant or the accused notifies to the Court before which the case or appeal is pending his intention to make an application under this section in respect of such case or appeal, the Court shall adjourn the case or postpone the appeal for such a period as will afford a reasonable time for the application to be made and an order to be obtained thereon.

(9) Notwithstanding anything hereinbefore contained, a Judge presiding in a Court of Session shall not be required to adjourn a trial under sub-section (8) if he is of opinion that the person notifying his intention of making an application under this section has had a reasonable opportunity of making such

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such an application and has failed without sufficient cause to take advantage of it."

146. In sub-section (1) of section 527 of the said Code, the word "criminal," where it occurs before the word "case", shall be omitted.

Amendment of section 527, Code of Criminal Procedure, 1898.

147. In section 528 of the said Code,—

Amendment of section 528, Code of Criminal Procedure, 1898.

(i) sub-sections (1), (2), (3) and (4) shall be re-numbered (2), (3), (5) and (6), respectively, and the following shall be inserted as sub-section (1), namely:—

"(1) Any Sessions Judge may withdraw any case from, or recall any case which he has made over to, any Assistant Sessions Judge subordinate to him";

Sessions Judge may withdraw cases from Assistant Sessions Judge.

(ii) after sub-section (3), as re-numbered, the following sub-section shall be inserted, namely:—

"(4) Any Magistrate may recall any case made over by him under section 192, sub-section (2), to any other Magistrate and may inquire into or try such case himself"; and

(iii) for sub-section (6), as re-numbered, the following sub-section shall be substituted, namely:—

"(6) The head of a village under the Madras Village-police Regulation, 1816, or the Madras Village-police Regulation, 1821, is a Magistrate for the purposes of this section."

XI of 1816.
IV of 1821.

148. In section 537 of the said Code,—

Amendment of section 537, Code of Criminal Procedure, 1898.

(i) clause (b) shall be omitted;

(ii) the word "want", where it occurs for the second time, shall be omitted; and

(iii) the *Illustration* shall be omitted.

149. In section 538 of the said Code, for the word "distress", wherever it occurs, the word "attachment" shall be substituted.

Amendment of section 538, Code of Criminal Procedure, 1898.

150. After section 539 of the said Code the following sections shall be inserted, namely:—

Insertion of new sections 539A and 539B in the Code of Criminal Procedure, 1898.

"539A. (1) When any application is made to any Court in the course of any inquiry, trial or other proceeding

Affidavit in proof of

Code of Criminal Procedure [ACT XVIII
(Amendment)].

conduct of
public
servant.

proceeding under this Code, and allegations are made therein respecting any public servant, the applicant may give evidence of the facts alleged in the application by affidavit, and the Court may, if it thinks fit, order that evidence relating to such facts be so given.

An affidavit to be used before any Court other than a High Court under this section may be sworn or affirmed in the manner prescribed in section 539, or before any Magistrate.

Affidavits under this section shall be confined to, and shall state separately, such facts as the deponent is able to prove from his own knowledge and such facts as he has reasonable grounds to believe to be true, and, in the latter case, the deponent shall clearly state the grounds of such belief.

(2) The Court may order any scandalous and irrelevant matter in an affidavit to be struck out or amended.

Local
inspection.

539B. (1) Any Judge or Magistrate may, at any state of any inquiry, trial or other proceeding, after due notice to the parties, visit and inspect any place in which an offence is alleged to have been committed, or any other place which it is in his opinion necessary to view for the purpose of properly appreciating the evidence given at such inquiry or trial, and shall without unnecessary delay record a memorandum of any relevant facts observed at such inspection.

(2) Such memorandum shall form part of the record of the case. If the Public Prosecutor, complainant or accused so desires, a copy of the memorandum shall be furnished to him free of cost :

Provided that, in the case of a trial by jury or with the aid of assessors, the Judge shall not act under this section, unless such jury or assessors are also allowed a view under section 293."

Insertion of
new section
540A, in the
Code of
Criminal Pro-
cedure, 1898.
Provision for
inquiries and
trial being

151. After section 540 of the said Code the following section shall be inserted, namely :—

" 540A. (1) At any stage of an inquiry or trial under this Code, where two or more accused are before

before the Court, if the Judge or Magistrate is satisfied, for reasons to be recorded, that any one or more of such accused is or are incapable of remaining before the Court, he may, if such accused is represented by a pleader, dispense with his attendance and proceed with such inquiry or trial in his absence, and may, at any subsequent stage of the proceedings, direct the personal attendance of such accused.

the absence of accused in certain cases.

(2) If the accused in any such case is not represented by a pleader, or if the Judge or Magistrate considers his personal attendance necessary, he may, if he thinks fit, and for reasons to be recorded by him, either adjourn such inquiry or trial, or order that the case of such accused be taken up or tried separately."

152. In section 545 of the said Code,—

(i) for clause (b) of sub-section (1) the following clause shall be substituted, namely:—

Amendment of section 545, Code of Criminal Procedure, 1898.

"(b) in the payment to any person of compensation for any loss or injury caused by the offence, when substantial compensation is, in the opinion of the Court, recoverable by such person in a Civil Court;" and

(ii) to sub-section (1) the following clause shall be added, namely:—

"(c) when any person is convicted of any offence which includes theft, criminal misappropriation, criminal breach of trust, or cheating, or of having dishonestly received or retained, or of having voluntarily assisted in disposing of, stolen property knowing or having reason to believe the same to be stolen, in compensating any *bonâ fide* purchaser of such property for the loss of the same if such property is restored to the possession of the person entitled thereto."

153. After section 546 of the said Code the following section shall be inserted, namely:—

Insertion of new section 546A in the Code of Criminal Procedure, 1898.
Order of payment of certain fees

" 546A. (1) Whenever any complaint of a non-cognizable offence is made to a Court, the Court, if it

Code of Criminal Procedure [ACT XVIII
(Amendment).

paid by complainant in non-cognizable cases. it convicts the accused, may, in addition to the penalty imposed upon him, order him to pay to the complainant—

- (a) the fee (if any) paid on the petition of complainant, or for the examination of the complainant, and
- (b) any fees paid by the complainant for serving processes on his witnesses or on the accused,

and may further order that, in default of payment, the accused shall suffer simple imprisonment for a period not exceeding thirty days.

(2) An order under this section may also be made by an Appellate Court, or by the High Court, when exercising its powers of revision.”

Amendment of section 547, Code of Criminal Procedure, 1898.

154. In section 547 of the said Code, after the word “ Code ” the words “ and the method of recovery of which is not otherwise expressly provided for ” shall be inserted.

Substitution of new section for section 559, Code of Criminal Procedure, 1898.

155. For section 559 of the said Code the following section shall be substituted, namely :—

Provision for powers of Judges and Magistrates being exercised by their successors in office.

“ 559. (1) Subject to the other provisions of this Code, the powers and duties of a Judge or Magistrate may be exercised or performed by his successor in office.

(2) When there is any doubt as to who is the successor in office of any Magistrate, the Chief Presidency Magistrate in a Presidency-town, and the District Magistrate outside such towns, shall determine by order in writing the Magistrate who shall, for the purposes of this Code or of any proceedings or order thereunder, be deemed to be the successor in office of such Magistrate.

(3) When there is any doubt as to who is the successor in office of any Additional or Assistant Sessions Judge, the Sessions Judge shall determine by order in writing the Judge who shall, for the

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(*Amendment*).

purposes of this Code or of any proceedings or order thereunder, be deemed to be the successor in office of such Additional or Assistant Sessions Judge."

156. After section 561 of the said Code the following section shall be inserted, namely:—

Insertion of new section 561A in the Code of Criminal Procedure, 1898.

" 561A. Nothing in this Code shall be deemed to limit or affect the inherent power of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice."

Saving of inherent power of High Court.

157. For section 562 of the said Code the following section shall be substituted, namely:—

Substitution of new section for section 562. Code of Criminal Procedure, 1898.

" 562. (1) When any person not under twenty-one years of age is convicted of an offence punishable with imprisonment for not more than seven years, or when any person under twenty-one years of age or any woman is convicted of an offence not punishable with death or transportation for life, and no previous conviction is proved against the offender, if it appears to the Court before which he is convicted, regard being had to the age, character or antecedents of the offender, and to the circumstances in which the offence was committed, that it is expedient that the offender should be released on probation of good conduct, the Court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period (not exceeding three years) as the Court may direct, and in the meantime to keep the peace and be of good behaviour :

Power of Court to release certain convicted offenders on probation of good conduct instead of sentencing to punishment.

Provided that, where any first offender is convicted by a Magistrate of the third class, or a Magistrate

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(Amendment)].

Magistrate of the second class not specially empowered by the Local Government in this behalf, and the Magistrate is of opinion that the powers conferred by this section should be exercised, he shall record his opinion to that effect, and submit the proceedings to a Magistrate of the first class or Sub-divisional Magistrate, forwarding the accused to, or taking bail for his appearance before, such Magistrate, who shall dispose of the case in manner provided by section 380.

(2) An order under this section may be made by any Appellate Court or by the High Court when exercising its power of revision.

(3) When an order has been made under this section in respect of any offender, the High Court may, on appeal when there is a right of appeal to such Court, or when exercising its powers of revision, set aside such order, and in lieu thereof pass sentence on such offender according to law :

Provided that the High Court shall not under this sub-section inflict a greater punishment than might have been inflicted by the Court by which the offender was convicted.

(4) The provisions of sections 122, 126A and 406A shall, so far as may be, apply in the case of sureties offered in pursuance of the provisions of this section."

Substitution
of new sec-
tion for sec-
tion 565,
Code of
Criminal
Procedure,
1898.
Order for
notifying
address of
previously
convicted
offender.

158. For section 565 of the said Code the following section shall be substituted, namely :—

" 565. (1) When any person having been convicted—

(a) by a Court in British India of an offence punishable under section 215, section 489A, section 489B, section 489C, or section 489D of the Indian Penal Code, ^{XLV of 1860.} or of any offence punishable under Chapter XII or Chapter XVII of that Code,

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Code, with imprisonment of either description for a term of three years, or upwards, or

- (b) by a Court or Tribunal in the territories of any Prince or State in India acting under the general or special authority of the Governor General in Council, or of any Local Government, of any offence which would, if committed in British India, have been punishable under any of the aforesaid sections or Chapters of the Indian Penal Code with like imprisonment for a like term,

XLV of 1860.

is again convicted of any offence punishable under any of those sections or Chapters with imprisonment for a term of three years or upwards by a High Court, Court of Session, Presidency Magistrate, District Magistrate, Sub-divisional Magistrate, or Magistrate of the first class, such Court or Magistrate may, if it or he thinks fit, at the time of passing sentence of transportation or imprisonment on such person. also order that his residence and any change of or absence from such residence after release be notified as hereinafter provided for a term not exceeding five years from the date of the expiration of such sentence.

(2) If such conviction is set aside on appeal or otherwise, such order shall become void.

(3) The Local Government may make rules to carry out the provisions of this section relating to the notification of residence or change of or absence from residence by released convicts.

(4) An order under this section may also be made by an Appellate Court or by the High Court when exercising its powers of revision.

(5) Any person against whom an order has been made under this section and who refuses or neglects to comply with any rule so made shall be deemed. within the meaning of section 176 of the Indian Penal Code, to have omitted to give a notice

XLV of 1860.

Code of Criminal Procedure [ACT XVIII
(Amendment).

notice required for the purpose of preventing the commission of an offence.

(6) Any person charged with a breach of any such rule may be tried by a Magistrate of competent jurisdiction in the district in which the place last notified by him as his place of residence is situated."

Amendment
of Schedule
II Code of
Criminal
Procedure,
1898

159. In Schedule II to the said Code,—

(1) in column 1, the figures " 405 " occurring between the figures " 404 " and " 406 " shall be omitted;

(2) for the first entry in column 3, against section 213, the words " may arrest without warrant " shall be substituted;

(3) for the entry in column 3, against section 214, the words " shall not arrest without warrant " shall be substituted;

(4) for the entry in column 3, against section 215, the words " May arrest without warrant " shall be substituted;

(5) for the entry in column 3, against section 374, the words " Shall not arrest without warrant " shall be substituted;

(6) for each of the entries in column 5, against sections 118, 119 and 120 occurring opposite the entries " If the offence be not committed " in column 2, the word " Bailable " shall be substituted; and for the entry in column 5 opposite the entry " 120 Concealing a design to commit an offence punishable with imprisonment. if the offence be committed " the words " According as the offence concealed is bailable or not " shall be substituted;

(7) for the entry in column 5, against section 363, the word " Bailable " shall be substituted; and, for the entry in the same column, against section 364, the words " Not bailable " shall be substituted;

(8) for the entry in column 5, against section 477A, the word " Bailable " shall be substituted;

(9) for the entry in column 5, against section 495, the word " Bailable " shall be substituted;

(10) for

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(*Amendment*).

(10) for each of the entries in column 6, against sections 343, 346 and 357, the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted; and, for each of the entries in the same column, against sections 344 and 347, the words "Not compoundable" shall be substituted;

(11) for the entry in column 6, against section 403, the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted;

(12) for each of the entries in column 6, against sections 417, 418, 419 and 420, the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted;

(13) for the entry in column 6, against section 430, the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted; and for the entry in the same column, against section 431, the words "Not compoundable" shall be substituted;

(14) for the first entry in column 6, against section 451, the following shall be substituted, namely:—"Compoundable when permission is given by the Court before which the prosecution is pending"; and, for the second entry in that column, against the same section, the words "Not compoundable" shall be substituted;

(15) for the entry in column 6, against section 482, the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted; and, for the entry in the same column, against section 484, the words "Not compoundable" shall be substituted;

(16) for the entry in column 6, against section 486, the words "Compoundable with permission of the Court before which the prosecution is pending" shall be substituted; and, for the entry in the same column, against section 487, the words "Not compoundable" shall be substituted.

(17) for

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(Amendment)].

(17) for the entry in column 6, against section 494, the words “Compoundable with permission of the Court before which the prosecution is pending” shall be substituted; and, for the entry in the same column, against section 495, the words “Not compoundable” shall be substituted;

(18) for the entry in column 6, against section 508, the word “Compoundable” shall be substituted;

(19) for the entry in column 6, against section 509, the words “Compoundable when permission is given by the Court before which the prosecution is pending” shall be substituted: and, for the entry in the same column, against section 510, the words “Not compoundable” shall be substituted;

(20) in the entry in column 7, against section 121, for the words “forfeiture of property” the word “fine” shall be substituted;

(21) in the entry in column 7, against section 121A, after the word “years” the words “and fine” shall be inserted;

(22) in the entry in column 7, against section 122, for the words “forfeiture of property” the word “fine” shall be substituted;

(23) for the entry in column 7, against section 477A, the words “Imprisonment of either description for seven years, or fine, or both” shall be substituted;

(24) for the entry in column 8, against section 294, the words “Any Magistrate” shall be substituted;

(25) for the entry in column 8, against section 317, the words “Court of Session, Presidency Magistrate or Magistrate of the first class” shall be substituted;

(26) in the entry in column 8, against section 318, the words “or second” shall be omitted;

(27) for the entry in column 8, against section 327, the words “Court of Session, Presidency
Magistrate

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(*Amendment*).

Magistrate, or Magistrate of the first class ” shall be substituted; and, for the entry in the same column, against section 328, the words “ Court of Session ” shall be substituted;

(28) for the entry in column 8, against section 368, the words “ Court of Session, Presidency Magistrate or Magistrate of the first class ” shall be substituted;

(29) for the entry in column 8, against section 477A, the words “ Court of Session, Presidency Magistrate or Magistrate of the first class ” shall be substituted;

(30) for the entry in column 8, against section 494, the words “ Court of Session, Presidency Magistrate or Magistrate of the first class ” shall be substituted; and, for the entry in the same column, against section 495, the words “ Court of Session ” shall be substituted.

160. In Schedule III to the said Code,—

(i) under Head I (*Ordinary Powers of a Magistrate of the Third Class*)—

(1) in item (5), after the word “ property ” the words “ and to dispose of claims to attached property ” shall be inserted;

(2) item (13) shall be omitted;

(3) in item (14), after the word “ detention ” the words “ not being detention in the custody of the police ” shall be inserted;

(4) the following item shall be inserted between items (14) and (15). namely:—

“ (14a) Power to postpone issue of process and inquire into case himself, section 202; ”

(5) to item (18), the words, figures and letter “ and to require fresh security, section 514A ” shall be added;

(6) after item (18) the following item shall be inserted, namely:—

“ (18a) power to make order as to custody and disposal of property pending inquiry or trial, section 516A; ”

Amendment
of Schedule
III, Code
of Criminal
Procedure,
1898.

(7) in

Code of Criminal Procedure [ACT XVIII
(Amendment).

(7) in item (20), the word “ perishable ” shall be omitted;

(8) after item (20) the following items shall be added, namely :—

“ (21) Power to require affidavit in support of application, section 539A;

(22) Power to make local inspection, section 539B; ”

(ii) under Head II (*Ordinary Powers of a Magistrate of the Second Class*)—

(1) for item (3) the following item shall be substituted, namely :—

“ (3) Power to postpone issue of process and to inquire into a case or direct investigation, section 202; ”

(2) item (4) shall be omitted;

(iii) under Head III (*Ordinary Powers of a Magistrate of the First Class*)—

(1) in item (6), for the figures “ 126 ” the figures and letter “ 126A ” shall be substituted;

(2) between items (6) and (7) the following item shall be inserted, namely :—

“ (6a) Power to make orders as to local nuisances, section 133; ”

(3) between items (7) and (8), the following items shall be inserted, namely :—

“ (7a) Power to record statements and confessions during a police investigation, section 164;

(7aa) Power to authorise detention of a person in the custody of the police during a police investigation, section 167;

(7b) Power to hold inquests. section 174; ”

(4) After item (9) the following item shall be inserted, namely :—

“ (9a) Power to tender pardon to accomplice during inquiry into case by himself, section 337; ”

(5) after

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(*Amendment*).

(5) after item (12) the following items shall be inserted, namely:—

“ (12a) Power to require fresh security, section 514A; ”

(12b) Power to re-call case made over by him to another Magistrate, section 528 (4); ”

(6) after item (13) the following item shall be added, namely:—

“ (14) Power to order released convicts to notify residence, section 565; ”

(iv) in Head IV (*Ordinary Powers of a Sub-divisional Magistrate*)—

(1) in the head note, after the words “ Sub-divisional Magistrate,” the words “ appointed under section 13 ” shall be inserted;

(2) the following items shall be omitted, namely:—

“ (4) Power to make orders as to local nuisances, section 133; ”

“ (10) Power to hold inquest, section 174; ”

“ (20) Power to order released convicts to notify residence section 565; ”

(v) in Head V (*Ordinary Powers of a District Magistrate*)—

(1) after item (1) the following item shall be inserted, namely:—

“ (1a) Power to try juvenile offenders, section 29A; ”

(2) after item (6) the following item shall be inserted, namely:—

“ (6a) Power to order preliminary investigation by police-officer not below the rank of Inspector in certain cases, section 196B; ”

(3) after

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(Amendment)].

(3) after item (7) the following item shall be inserted, namely :—

“ (7a) Power to tender pardon to accomplice at any stage of a case, section 337; ”

(4) in item (9), after the word “ for ” the words “ keeping the peace or ” shall be inserted;

(5) after item (9) the following item shall be inserted, namely :—

“ (9a) Power to hear appeals from orders of Magistrates refusing to accept or rejecting sureties, section 406A; ”

(6) in item (12), for the figures “ 436 ” the figures “ 437,” and, in item (13), for the figures “ 437 ” the figures “ 436 ” shall be substituted, and items (12) and (13) shall be re-numbered (13) and (12), respectively.

Amendment
of Schedule
IV, Code of
Criminal
Procedure,
1898.

161. In Schedule IV to the said Code,—

(i) from the list of powers with which a Magistrate of the first class may be invested by the Local Government, the following shall be omitted, namely :—

“ (3) Power to make orders as to local nuisances, section 133; ”

“ (6) Power to hold inquests, section 174; ”

“ (14) Power to order released convicts to notify residence, section 565; ”

(ii) from the list of powers with which a Magistrate of the first class may be invested by the District Magistrate, item (3), namely, “ Power to hold inquests, section 174,” shall be omitted;

(iii) in the list of powers with which a Magistrate of the second class may be invested by the Local Government—

between items (3) and (4) the following items shall be inserted, namely :—

“ (3a) Power to record statements and confessions during a police investigation, section 164;

(3b) Power

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(3b) Power to authorise detention of a person in the custody of the police during a police investigation, section 167; ”

(iv) from the list of powers with which a Magistrate of the third class may be invested by the Local Government, the following shall be omitted, namely :—

“ (2) Power to make orders under section 144; ”

“ (6) Power to commit for trial, section 206; ”

and from the list of powers with which such Magistrates may be invested by the District Magistrate, the following shall be omitted, namely :—

“ (2) Power to make orders under section 144.”

162. In Schedule V to the said Code,—

(i) in Form VI—

Amendment
of Schedule
V, Code of
Criminal
Procedure,
1898.

(a) in the ORDER OF ATTACHMENT TO COMPEL THE ATTENDANCE OF A WITNESS, for the words “ Proclamation was duly issued ” the words “ Proclamation has been or is being duly issued ” shall be substituted, and the words “ and he has failed to appear ” shall be omitted;

(b) in the ORDER OF ATTACHMENT TO COMPEL THE APPEARANCE OF A PERSON ACCUSED, for the words “ Proclamation was duly issued ” the words “ Proclamation has been or is being duly issued ” shall be substituted;

(c) in the ORDER AUTHORISING AN ATTACHMENT BY THE DEPUTY COMMISSIONER AS COLLECTOR, for the words “ Proclamation was duly issued ” the words “ Proclamation has been or is being duly issued ” shall be substituted, and the words “ but he has not appeared ” shall be omitted;

(ii) in

Code of Criminal Procedure [ACT XVIII
(Amendment)].

(ii) in Forms X and XI, after the words “ for the term of ,” wherever they occur, the words “ or until the completion of the inquiry in the matter of now pending in the Court of ;” and after the words “ said term,” wherever they occur, the words “ or until the completion of the said inquiry ” shall be inserted;

(iii) in Form XXX—

(a) in the heading for the word “ DISTRESS ” the words “ ATTACHMENT AND SALE ” shall be substituted;

(b) after the words “ dismissed as ” the words “ false and ” shall be inserted; and

(c) the words “ and cannot be recovered by distress of the moveable property of the said (name of complainant) ” shall be omitted;

(iv) in Form XXXVII, after the figures “ 386 ” the figure, letter and brackets “ (1) (a) ” shall be inserted;

(v) in each of Forms XXXVII and XLI, the following amendments shall be made, namely :—

(a) in the heading, for the word “ DISTRESS ” the word “ ATTACHMENT ” shall be substituted;

(b) for the words “ make distress by seizure of any ” the words “ attach any ” shall be substituted;

(c) for the words “ such distress ” the words “ such attachment ” shall be substituted; and

(d) for the words “ property distrained ” the words “ property attached ” shall be substituted;

(vi) after

Code of Criminal Procedure [ACT XVIII OF 1923.]
(*Amendment*).

(vi) after Form XXXVII the following Form shall be inserted, namely:—

“ XXXVIIA.—BOND FOR APPEARANCE OF OFFENDER
RELEASED PENDING REALISATION OF FINE.

(*See section 388.*)

WHEREAS I, (*name*), *inhabitant of (place)*, have been sentenced to pay a fine of rupees and in default of payment thereof to undergo imprisonment for ; and whereas the Court has been pleased to order my release until the day of on condition of my executing a bond for my appearance on that day;

I hereby bind myself to appear before the Court of at o'clock on the said day of next, and, in case of making default herein, I bind myself to forfeit to His Majesty the King, Emperor of India, the sum of Rupees .

Dated this day of 19

(*Signature.*)

Where a bond with sureties is to be executed, add—

We do hereby declare ourselves sureties for the above-named that he will appear before the Court of on the day of next; and, in case of his making default therein, we bind ourselves jointly and severally to forfeit to His Majesty the King, Emperor of India, the sum of Rupees

(*Signature.*) ”

VII of 1870. **163.** Section 31 of the Court-fees Act, 1870, is hereby repealed.

Repeal of
section 31,
Court-fees
Act, 1870.

164. This Act shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

Commence-
ment.

CALCUTTA
SUPERINTENDENT GOVERNMENT PRINTING, INDIA
8, HASTINGS STREET

ACT NO. XIX OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 2nd April, 1923.)

An Act to consolidate and amend the law in British India relating to official secrets.

XV of 1889.
V of 1904.

1 & 2 Geo.
V, c. 28.
1 & 2 Geo.
V, c. 28.
10 & 11 Geo.
V, c. 75.

WHEREAS the law in British India relating to official secrets is at present contained in two Acts of the Governor General in Council, namely, the Indian Official Secrets Act, 1889, and the Indian Official Secrets (Amendment) Act, 1904, and one Statute of Parliament, namely, the Official Secrets Act, 1911; and

WHEREAS the Official Secrets Act, 1911, has been amended by the Official Secrets Act, 1920, which Statute applies to the United Kingdom and to certain British possessions, but not to British India; and

WHEREAS it is expedient that the law relating to official secrets in British India should be consolidated and amended;

It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Official Secrets Act, 1923.

Short title,
extent and
application.

(2) It extends to the whole of British India, and applies also—

(a) to all subjects of His Majesty and servants of the Crown within the dominions of Princes and States in India in alliance with His Majesty; and

(b) to all Indian subjects of His Majesty without and beyond British India.

2. In

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

- (1) any reference to a place belonging to His Majesty includes a place occupied by any department of the Government, whether the place is or is not actually vested in His Majesty;
- (2) expressions referring to communicating or receiving include any communicating or receiving, whether in whole or in part, and whether the sketch, plan, model, article, note, document, or information itself or the substance, effect or description thereof only be communicated or received; expressions referring to obtaining or retaining any sketch, plan, model, article, note or document, include the copying or causing to be copied of the whole or any part of any sketch, plan, model, article, note, or document; and expressions referring to the communication of any sketch, plan, model, article, note or document include the transfer or transmission of the sketch, plan, model, article, note or document;
- (3) “document” includes part of a document;
- (4) “model” includes design, pattern and specimen;
- (5) “munitions of war” includes the whole or any part of any ship, submarine, aircraft, tank or similar engine, arms and ammunition, torpedo, or mine intended or adapted for use in war, and any other article, material, or device, whether actual or proposed, intended for such use;
- (6) “Office under His Majesty” includes any office or employment in or under any department of the Government or of the Government

Government of the United Kingdom or of any British possession;

(7) “ photograph ” includes an undeveloped film or plate;

(8) “ prohibited place ” means—

(a) any work of defence, arsenal, naval, military or air force establishment or station, mine, minefield, camp, ship or aircraft belonging to, or occupied by or on behalf of, His Majesty, any military telegraph or telephone so belonging or occupied, any wireless or signal station or office so belonging or occupied and any factory, dockyard or other place so belonging or occupied and used for the purpose of building, repairing, making or storing any munitions of war, or any sketches, plans, models or documents relating thereto, or for the purpose of getting any metals, oil or minerals of use in time of war;

(b) any place not belonging to His Majesty where any munitions of war or any sketches, models, plans or documents relating thereto, are being made, repaired, gotten or stored under contract with, or with any person on behalf of His Majesty, or otherwise on behalf of His Majesty;

(c) any place belonging to or used for the purpose of His Majesty which is for the time being declared by the Governor General in Council, by notification in the Gazette of India, to be a prohibited place for the purposes of this Act on the ground that information with respect thereto, or damage thereto, would be useful to

an

an enemy, and to which a copy of the notification in respect thereof has been affixed in English and in the vernacular of the locality;

- (d) any railway, road, way or channel, or other means of communication by land or water (including any works or structures being part thereof or connected therewith) or any place used for gas, water or electricity works or other works for purposes of a public character, or any place where any munitions of war or any sketches, models, plans, or documents relating thereto, are being made, repaired, or stored otherwise than on behalf of His Majesty, which is for the time being declared by the Governor General in Council, by notification in the Gazette of India, to be a prohibited place for the purposes of this Act on the ground that information with respect thereto, or the destruction or obstruction thereof, or interference therewith, would be useful to an enemy, and to which a copy of the notification in respect thereof has been affixed in English and in the vernacular of the locality;
- (9) " sketch " includes any photograph or other mode of representing any place or thing; and
- (10) " Superintendent of Police " includes any police officer of a like or superior rank, and any person upon whom the powers of a Superintendent of Police are for the purposes of this Act conferred by the Governor General in Council or by any Local Government

3. (1) If any person for any purpose prejudicial to the safety or interests of the State— Penalties for spying.

- (a) approaches, inspects, passes over or is in the vicinity of, or enters, any prohibited place; or
- (b) makes any sketch, plan, model, or note which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy; or
- (c) obtains, collects, records or publishes or communicates to any other person any secret official code or pass word, or any sketch, plan, model, article or note or other document or information which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy;

he shall be punishable with imprisonment for a term which may extend, where the offence is committed in relation to any work of defence, arsenal, naval, military or air force establishment or station, mine, minefield, factory, dockyard, camp, ship or aircraft or otherwise in relation to the naval, military or air force affairs of His Majesty or in relation to any secret official code, to fourteen years and in other cases to three years.

(2) On a prosecution for an offence punishable under this section with imprisonment for a term which may extend to fourteen years, it shall not be necessary to show that the accused person was guilty of any particular act tending to show a purpose prejudicial to the safety or interests of the State, and, notwithstanding that no such act is proved against him, he may be convicted if, from the circumstances of the case or his conduct or his known character as proved, it appears that his purpose was a purpose prejudicial to the safety or interests of the State; and if any sketch, plan, model, article, note, document, or information relating to or used in any prohibited place, or relating to anything in such a place, or any secret official code or pass word is made, obtained,

obtained, collected, recorded, published or communicated by any person other than a person acting under lawful authority, and from the circumstances of the case or his conduct or his known character as proved it appears that his purpose was a purpose prejudicial to the safety or interests of the State such sketch, plan, model, article, note, document or information shall be presumed to have been made, obtained, collected, recorded, published or communicated for a purpose prejudicial to the safety or interests of the State.

Communica-
tions with
foreign
agents to be
evidence of
commission
of certain
offences.

4. (1) In any proceedings against a person for an offence under section 3, the fact that he has been in communication with, or attempted to communicate with, a foreign agent, whether within or without British India, shall be relevant for the purpose of proving that he has, for a purpose prejudicial to the safety or interests of the State, obtained or attempted to obtain information which is calculated to be or might be, or is intended to be, directly or indirectly, useful to an enemy.

(2) For the purpose of this section, but without prejudice to the generality of the foregoing provision,—

(a) a person may be presumed to have been in communication with a foreign agent if—

- (i) he has, either within or without British India, visited the address of a foreign agent or consorted or associated with a foreign agent, or
- (ii) either within or without British India, the name or address of, or any other information regarding, a foreign agent has been found in his possession, or has been obtained by him from any other person;

(b) the expression “ foreign agent ” includes any person who is or has been or in respect of whom it appears that there are reasonable grounds for suspecting him

him of being or having been employed by a foreign power, either directly or indirectly, for the purpose of committing an act, either within or without British India, prejudicial to the safety or interests of the State, or who has or is reasonably suspected of having, either within or without British India, committed, or attempted to commit, such an act in the interests of a foreign power;

- (c) any address, whether within or without British India, in respect of which it appears that there are reasonable grounds for suspecting it of being an address used for the receipt of communications intended for a foreign agent, or any address at which a foreign agent resides, or to which he resorts for the purpose of giving or receiving communications, or at which he carries on any business, may be presumed to be the address of a foreign agent, and communications addressed to such an address to be communications with a foreign agent.

5. (i) If any person having in his possession of control any secret official code or pass word or any sketch, plan, model, article, note, document or information which relates to or is used in a prohibited place or relates to anything in such a place, or which has been made or obtained in contravention of this Act, or which has been entrusted in confidence to him by any person holding office under His Majesty, or which he has obtained or to which he has had access owing to his position as a person who holds or has held office under His Majesty, or as a person who holds or has held a contract made on behalf of His Majesty, or as a person who is or has been employed under a person who holds or has held such an office or contract—

Wrongful communication, etc., of information.

- (a) wilfully communicates the code or pass word, sketch, plan, model, article, note, document

document or information to any person other than a person to whom he is authorised to communicate it, or a Court of Justice or a person to whom it is, in the interests of the State, his duty to communicate it; or

- (b) uses the information in his possession for the benefit of any foreign power or in any other manner prejudicial to the safety of the State; or
- (c) retains the sketch, plan, model, article, note or document in his possession or control when he has no right to retain it, or when it is contrary to his duty to retain it, or wilfully fails to comply with all directions issued by lawful authority with regard to the return or disposal thereof; or
- (d) fails to take reasonable care of, or so conducts himself as to endanger the safety of, the sketch, plan, model, article, note, document, secret official code or pass word or information;

he shall be guilty of an offence under this section.

(2) If any person voluntarily receives any secret official code or pass word or any sketch, plan, model, article, note, document or information knowing or having reasonable ground to believe, at the time when he receives it, that the code, pass word, sketch, plan, model, article, note, document or information is communicated in contravention of this Act, he shall be guilty of an offence under this section.

(3) If any person having in his possession or control any sketch, plan, model, article, note, document or information, which relates to munitions of war, communicates it, directly or indirectly, to any foreign power or in any other manner prejudicial to the safety or interests of the State, he shall be guilty of an offence under this section.

(4) A person guilty of an offence under this section shall be punishable with imprisonment for a term

term which may extend to two years, or with fine, or with both.

6. (1) If any person for the purpose of gaining admission or of assisting any other person to gain admission to a prohibited place or for any other purpose prejudicial to the safety of the State—

Unauthoris-
ed use of
uniforms;
falsification
of reports,
forgery,
personation,
and false
documents.

- (a) uses or wears, without lawful authority, any naval, military, air force, police or other official uniform, or any uniform so nearly resembling the same as to be calculated to deceive, or falsely represents himself to be a person who is or has been entitled to use or wear any such uniform; or
- (b) orally, or in writing in any declaration or application, or in any document signed by him or on his behalf, knowingly makes or connives at the making of any false statement or any omission; or
- (c) forges, alters, or tampers with any passport or any naval, military, air force, police, or official pass, permit, certificate, licence, or other document of a similar character (hereinafter in this section referred to as an official document) or knowingly uses or has in his possession any such forged, altered, or irregular official document; or
- (d) personates, or falsely represents himself to be, a person holding, or in the employment of a person holding, office under His Majesty, or to be or not to be a person to whom an official document or secret official code or pass word has been duly issued or communicated, or with intent to obtain an official document, secret official code or pass word, whether for himself or any other person, knowingly makes any false statement; or
- (e) uses, or has in his possession or under his control, without the authority of the department

department of the Government or the authority concerned, any die, seal or stamp of or belonging to, or used, made or provided by, any department of the Government, or by any diplomatic, naval, military, or air force authority appointed by or acting under the authority of His Majesty, or any die, seal or stamp so nearly resembling any such die, seal or stamp as to be calculated to deceive, or counterfeits any such die, seal or stamp, or knowingly uses, or has in his possession or under his control, any such counterfeited die, seal or stamp;

he shall be guilty of an offence under this section.

(2) If any person for any purpose prejudicial to the safety of the State—

(a) retains any official document, whether or not completed or issued for use, when he has no right to retain it, or when it is contrary to his duty to retain it, or wilfully fails to comply with any directions issued by any department of the Government or any person authorised by such department with regard to the return or disposal thereof; or

(b) allows any other person to have possession of any official document issued for his use alone, or communicates any secret official code or pass word so issued, or, without lawful authority or excuse, has in his possession any official document or secret official code or pass word issued for the use of some person other than himself, or, on obtaining possession of any official document by finding or otherwise, wilfully fails to restore it to the person or authority by whom or for whose use it was issued, or to a police officer; or

(c) without

- (c) without lawful authority or excuse, manufactures or sells, or has in his possession for sale, any such die, seal or stamp as aforesaid;

he shall be guilty of an offence under this section.

(3) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(4) The provisions of sub-section (2) of section 3 shall apply, for the purpose of proving a purpose prejudicial to the safety of the State, to any prosecution for an offence under this section relating to the naval, military or air force affairs of His Majesty, or to any secret official code in like manner as they apply, for the purpose of proving a purpose prejudicial to the safety or interests of the State to prosecutions for offences punishable under that section with imprisonment for a term which may extend to fourteen years.

7. (1) No person in the vicinity of any prohibited place shall obstruct, knowingly mislead or otherwise interfere with or impede, any police officer, or any member of His Majesty's forces engaged on guard, sentry, patrol, or other similar duty in relation to the prohibited place.

Interfering with officers of the police or members of His Majesty's forces.

(2) If any person acts in contravention of the provisions of this section, he shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

8. (1) It shall be the duty of every person to give on demand to a Superintendent of Police, or other police officer not below the rank of Inspector, empowered by an Inspector-General or Commissioner of Police in this behalf, or to any member of His Majesty's forces engaged on guard, sentry, patrol or other similar duty, any information in his power relating to an offence or suspected offence under section 3 or under section 3 read with section 9 and, if so required, and upon tender of his reasonable

Duty of giving information as to commission of offences.

reasonable expenses, to attend at such reasonable time and place as may be specified for the purpose of furnishing such information.

(2) If any person fails to give any such information or to attend as aforesaid, he shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

Attempts,
incitements,
etc.

9. Any person who attempts to commit or abets the commission of an offence under this Act shall be punishable with the same punishment, and be liable to be proceeded against in the same manner as if he had committed such offence.

Penalty for
harbouring
spies.

10. (1) If any person knowingly harbours any person whom he knows or has reasonable grounds for supposing to be a person who is about to commit or who has committed an offence under section 3 or under section 3 read with section 9 or knowingly permits to meet or assemble in any premises in his occupation or under his control any such persons, he shall be guilty of an offence under this section.

(2) It shall be the duty of every person having harboured any such person as aforesaid, or permitted to meet or assemble in any premises in his occupation or under his control any such persons as aforesaid, to give on demand to a Superintendent of Police or other police officer not below the rank of Inspector empowered by an Inspector-General or Commissioner of Police in this behalf, any information in his power relating to any such person or persons, and if any person fails to give any such information, he shall be guilty of an offence under this section.

(3) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

Search war-
rants.

11. (1) If a Presidency Magistrate, Magistrate of the first class or Sub-divisional Magistrate is satisfied by information on oath that there is reasonable ground for suspecting that an offence
under

under this Act has been or is about to be committed, he may grant a search-warrant authorising any police officer named therein, not being below the rank of an officer in charge of a police station, to enter at any time any premises or place named in the warrant, if necessary, by force, and to search the premises or place and every person found therein, and to seize any sketch, plan, model, article, note or document, or anything of a like nature, or anything which is evidence of an offence under this Act having been or being about to be committed which he may find on the premises or place or any such person, and with regard to or in connection with which he has reasonable ground for suspecting that an offence under this Act has been or is about to be committed.

(2) Where it appears to a police officer, not being below the rank of Superintendent, that the case is one of great emergency, and that in the interests of the State immediate action is necessary, he may by a written order under his hand give to any police officer the like authority as may be given by the warrant of a Magistrate under this section.

(3) Where action has been taken by a police officer under sub-section (2) he shall, as soon as may be, report such action, in a Presidency town to the Chief Presidency Magistrate, and outside such town to the District or Sub-divisional Magistrate.

12. Notwithstanding anything in the Code of Criminal Procedure, 1898,— Power to arrest.

(a) an offence punishable under section 3 or under section 3 read with section 9 with imprisonment for a term which may extend to fourteen years shall be a cognizable and non-bailable offence;

(b) an offence under clause (a) of sub-section (1) of section 6 shall be a cognizable and bailable offence; and

(c) every

- (c) every other offence under this Act shall be a non-cognizable and bailable offence, in respect of which a warrant of arrest shall ordinarily issue in the first instance.

Restriction
on trial of
offences.

13. (1) No Court (other than that of a Magistrate of the first class specially empowered in this behalf by the Local Government) which is inferior to that of a District or Presidency Magistrate shall try any offence under this Act.

(2) If any person under trial before a Magistrate for an offence under this Act at any time before a charge is framed claims to be tried by the Court of Session, the Magistrate shall, if he does not discharge the accused, commit the case for trial by that Court, notwithstanding that it is not a case exclusively triable by that Court.

(3) No Court shall take cognizance of any offence under this Act unless upon complaint made by order of, or under authority from, the Governor General in Council, the Local Government, or some officer empowered by the Governor General in Council in this behalf :

Provided that a person charged with such an offence may be arrested, or a warrant for his arrest may be issued and executed, and any such person may be remanded in custody or on bail, notwithstanding that such complaint has not been made, but no further or other proceedings shall be taken until such complaint has been made.

(4) For the purposes of the trial of a person for an offence under this Act, the offence may be deemed to have been committed either at the place in which the same actually was committed or at any place in British India in which the offender may be found.

Exclusion of
public from
proceedings.

14. In addition and without prejudice to any powers which a Court may possess to order the exclusion of the public from any proceedings if, in the course of proceedings before a Court against any person for an offence under this Act or the proceedings

on appeal, or in the course of the trial of a person under this Act, application is made by the prosecution, on the ground that the publication of any evidence to be given or of any statement to be made in the course of the proceedings would be prejudicial to the safety of the State, that all or any portion of the public shall be excluded during any part of the hearing, the Court may make an order to that effect, but the passing of sentence shall in any case take place in public.

15. Where the person guilty of an offence under this Act is a company or corporation, every director and officer of the company or corporation with whose knowledge and consent the offence was committed shall be guilty of the like offence. Offences by companies, etc.

XV of 1889. **16.** The Indian Official Secrets Act, 1889, and Repeals.
V of 1904. the Indian Official Secrets (Amendment) Act, 1904, are hereby repealed.

CALCUTTA
SUPERINTENDENT GOVERNMENT PRINTING, INDIA
8, HASTINGS STREET

ACT No. XX OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 2nd April, 1923.)

An Act to give effect to certain Articles of the International Convention for the suppression of the traffic in women and children.

WHEREAS it is expedient further to amend the Indian Penal Code in order to give effect to the International Convention for the suppression of the traffic in women and children signed at Geneva on behalf of the Governor General in Council on the twenty-eighth day of March, 1922; It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 1923.

Short title
and com-
mencement

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

2. To section 366 of the said Code the following paragraph shall be added, namely :—

Amendment
of section
366, Act XLV
of 1860.

“ and whoever, by means of criminal intimidation as defined in this Code or of abuse of authority or any other method of compulsion, induces any woman to go from any place with intent that she may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall also be punishable as aforesaid.”

3. After section 366 of the said Code the following sections shall be inserted, namely :—

Insertion of
new sections
366 A and
366 B in Act
XLV of 1860.

“ 366A. Whoever, by any means whatsoever, induces any minor girl under the age of eighteen

Procurator
of minor girl.

Indian Penal Code (Amendment). [ACT-XX OF 1923.]

eighteen years to go from any place or to do any act with intent that such girl may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall be punishable with imprisonment which may extend to ten years and shall also be liable to fine.

Importation
of girl from
foreign
country.

366B. Whoever imports into British India from any country outside India any girl under the age of twenty-one years with intent that she may be, or knowing it to be likely that she will be, forced or seduced to illicit intercourse with another person,

and whoever with such intent or knowledge imports into British India from any State in India any such girl who has with the like intent or knowledge been imported into India, whether by himself or by another person,

shall be punishable with imprisonment which may extend to ten years and shall also be liable to fine."

Amendment
of Schedule
II, Code of
Criminal
Procedure,
1898.

4. In the Second Schedule to the Code of Criminal Procedure, 1898, after the entry relating to section 366 of the Indian Penal Code the following entries shall be inserted, namely :—

"366A	Procurement of minor girl.	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Imprisonment of either description for ten years and fine.	Court of Session.
366B	Importation of girl from foreign country.	May arrest without warrant.	Warrant	Not bailable	Not compoundable.	Imprisonment of either description for ten years and fine.	Court of Session."

**Indian Merchant Shipping Act, 1923 (XXI
of 1923).**

ERRATUM.

Page 114 :—*For* sub-section (2) of section 218
substitute the following :—

“(2) The centre of the disc shall be placed at such level below the deck-line marked under the provisions of this Part or of the Merchant Shipping Acts, as may be approved by the Local Government, and shall indicate the maximum load-line in perfectly smooth salt-water to which it shall be lawful to load the ship.”

THE INDIAN MERCHANT SHIPPING ACT, 1923.

(XXI OF 1923.)

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ACT NO. XXI OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the
2nd April, 1923.)*

An Act to consolidate certain enactments
relating to Merchant Shipping.

WHEREAS it is expedient to consolidate certain
enactments relating to Merchant Shipping; It
is hereby enacted as follows :—

PART I.

INTRODUCTORY.

1. (1) This Act may be called the Indian Merchant Shipping Act, 1923. Short title
and com-
mencement.

(2) It shall come into force on such date as the
Governor General in Council may, by notification in
the Gazette of India, appoint.

2. In this Act, unless there is anything repug- Definitions.
nant in the subject or context,—

(1) “ effects ” includes clothes and documents;

(2) “ foreign-going ship ” means a ship, not be-
ing a home-trade ship, employed in trad-
ing between any port in British India
and any other port or place;

(3) “ home-trade ship ” means a ship employed
in trading between any ports in British
India or between any port in British
India and any port or place on the con-
tinent of India or in the Straits Settle-
ments, or in the Island of Ceylon;

(4) “ master ” includes every person (except a
pilot or harbour master) having command
or charge of a ship;

(5) “ Merchant

- (5) “ Merchant Shipping Acts ” mean the Merchant Shipping Acts, 1894—1921;
- (6) “ passenger ” includes any person carried in a ship other than the master and crew and the owner, his family and servants;
- (7) “ prescribed ” means prescribed by rules made under this Act;
- (8) “ seaman ” means every person (except masters, pilots and apprentices duly indentured and registered) employed or engaged in any capacity on board any ship;
- (9) “ steam-ship ” means every description of vessel used in navigation and propelled wholly or in part by the agency of steam; and
- (10) “ wages ” includes emoluments.

Application of Act to ships propelled by electricity or mechanical power.

3. The provisions of this Act applying to steamships shall apply to ships propelled by electricity or other mechanical power, with such modifications as the Governor General in Council may, by notification in the Gazette of India, direct for the purpose of adaptation.

Exemption of public ships.

4. This Act shall not, except where specially provided, apply to ships belonging to His Majesty or the Government, or to ships belonging to any foreign Prince or State and employed otherwise than for profit in the public service of that foreign Prince or State.

PART II.

MASTERS AND SEAMEN.

Application.

5. (1) The provisions of this Part relating to the requirement of masters and mates to hold certificates of competency shall not apply to ships registered under the Indian Registration of Ships Act, 1841, ^{X of 1841.} and trading between ports in India and the coast of Arabia, when such ships are navigated and manned exclusively by Arabs, lascars or other Asiatic masters and seamen.

(2) Save

(2) Save as hereinbefore provided in this section, this Part shall, unless there is anything repugnant in the subject or context, apply to British ships and to the owners, masters and crews thereof as follows :--

- (a) The provisions relating to licences to supply seamen, engagement of the crew, agreements with lascars, discharge of seamen, payment of wages, advance and allotment of wages, mode of recovering wages, and recovery of expenses of relief of distressed seamen, shall apply to every sea-going ship in British India.
- (b) The provisions relating to the property of deceased seamen and apprentices shall apply to every sea-going ship, not being a ship registered in the United Kingdom or a ship employed in trading or going from or to any port in the United Kingdom, where the crew are discharged or the final port of destination of the ship is in British India.
- (c) The provisions relating to the rights of seamen in respect of wages, to the return of distressed seamen, to the provisions and health of seamen, to the power of seamen to make complaints, to the protection of seamen from imposition and to discipline shall apply to sea-going ships registered in British India, while such ships are in British India.
- (d) The provisions relating to official logs shall apply to sea-going ships registered in British India, and to any sea-going ship, not being a ship registered in the United Kingdom, employed in trading or going between any port in British India and any port not situated in the part of His Majesty's dominions in which the ship is registered other than in the United Kingdom.

(3) The provisions of this Part, in so far as they are adaptations of the provisions of Part II of the Merchant Shipping Act, 1894, and are not local in their

their application, have, by virtue of section 264 of the Merchant Shipping Act, 1894, effect throughout His Majesty's dominions and in all places where His Majesty has jurisdiction, as well as in British India. ^{57 & 58}
^{Vict., c. 60.}

Shipping Offices.

Shipping
Offices.

6. (1) Shipping offices shall be maintained at every port in British India where there is a shipping office at the commencement of this Act, and may be established and maintained at such other ports as the Governor General in Council may deem necessary.

(2) For every such office there shall be a shipping-master with such deputy shipping-masters, clerks and servants (if any) as the Local Government may consider necessary.

(3) Shipping-masters and deputy shipping-masters shall be appointed by the Local Government, and shall respectively be subject to the control of that Government or of any intermediate authority which it may appoint.

(4) Every act done by or before a deputy shipping-master shall have the same effect as if done by or before a shipping-master.

Power to direct that business of shipping office be transacted at custom house office or elsewhere

7. (1) The Local Government may direct that at any port at which no separate shipping office is established, the whole or any part of the business of the shipping office shall be conducted at the custom house, or at the office of the port officer, or at such other office as the Local Government shall direct, and thereupon the same shall be conducted accordingly.

(2) In respect of such business such custom house or office as aforesaid shall for all purposes be deemed to be a shipping office, and the officer to whom such business is committed shall for all purposes be deemed to be a shipping-master within the meaning of this Act.

Business of shipping-masters.]

8. It shall be the general business of shipping-masters—

(i) to superintend and facilitate the engagement and discharge of seamen in manner in this Act provided;

(ii) to

XIX of 1850.

- (ii) to provide means for securing the presence on board at the proper times of the sea men who are so engaged;
- (iii) to give to all persons desirous of apprenticing boys to the sea service and duly authorised so to do by the Apprentices Act, 1850, and also to owners and masters of British ships requiring apprentices, such assistance as may be in their power for facilitating the making of such apprenticeships;
- (iv) to perform such other duties relating to seamen, apprentices and merchant ships as are for the time being committed to them by or under this Act or the Merchant Shipping Acts.

9. (1) Such fees, not exceeding the sum specified in Table A in Schedule I, as may be fixed by the Local Government shall be payable upon all engagements and discharges effected before shipping-masters. Fees to be paid.

(2) Scales of the fees payable for the time being shall be conspicuously placed in the shipping office, and all shipping-masters, their deputies, clerks and servants may refuse to proceed with any engagement unless the fees payable thereon are first paid.

(3) Every owner or master of a ship engaging or discharging any seaman in a shipping office or before a shipping-master, shall pay to the shipping-master the whole of the fees hereby made payable in respect of such engagement or discharge, and may, for the purpose of in part reimbursing himself, deduct in respect of each such engagement or discharge from the wages of all persons (except apprentices) so engaged or discharged, and retain any sums not exceeding the sums specified in that behalf in Table B, in Schedule I :

Provided that, if in any cases the sums which the owner is so entitled to deduct, exceed the amount of the fee payable by him, such excess shall be paid by him to the shipping-master in addition to such fee.

(4) For the purpose of determining the fees to be paid upon the engagement and discharge of seamen belonging

belonging to foreign-going ships which have running agreements as hereinafter provided, the crew shall be considered to be engaged when the agreement is first signed, and to be discharged when the agreement finally terminates, and all intermediate engagements and discharges shall be considered to be engagements and discharges of single seamen.

Prohibition on taking other remuneration at shipping office.

10. If a shipping-master, deputy shipping-master, clerk or servant in a shipping office demands or receives, other than the fees authorised under this Act, any remuneration whatever, either directly or indirectly, for hiring or supplying any seaman for a ship or transacting any business which it is his duty to transact, he shall be liable for every such offence to a fine which may extend to two hundred rupees, and shall also be dismissed from his office.

Certificates of Competency.

Certificates of competency to be held by officers of foreign-going and home-trade ships and foreign passenger ships.

11. (1) Every British foreign-going ship and every British home-trade ship of three hundred tons or upwards when going to sea from any place in British India shall be provided with officers duly certificated under this Act according to the following scale, namely :—

- (a) in any case, with a duly certificated master ;
- (b) if the ship is of three hundred tons or upwards, with at least one officer besides the master holding a certificate not lower than that of a mate.

(2) Every British foreign-going steamship when going to sea from any place in British India shall be provided with engineers duly certificated under this Act according to the following scale, namely :—

- (a) if the ship is of one hundred nominal horse-power or upwards, with at least two engineers, one of whom shall be a first class and the other a first class or second class engineer duly certificated ;
- (b) if the ship is of less than one hundred nominal horse-power, with at least one engineer

engineer who is a first class or second class
engineer duly certificated.

(3) Every British home-trade steam-ship when going to sea from any place in British India and every foreign steam-ship carrying passengers between places in British India shall be provided with engineers duly certificated according to the following scale, namely:—

- (a) if the ship is of fifty nominal horse-power or upwards, with at least one engineer who is a first class or second class engineer duly certificated;
- (b) if the ship is of less than fifty nominal horse-power, with at least one engineer who is a first class or second class engineer, or an engine driver duly certificated.

(4) Nothing in this section which relates to engineers or engine drivers shall apply to any steam-ship to which the provisions of the Inland Steam-vessels Act, 1917, apply.

I of 1917

12. An officer shall not be deemed to be duly certificated under this Act, unless he holds a certificate of a grade appropriate to his station in the ship or of a higher grade,

When officer
deemed duly
certificated.

- (a) granted in accordance with the Merchant Shipping Acts or any Act repealed thereby or this Act or any Act repealed hereby; or
- (b) issued by a competent authority in any British possession, the certificates of which have been declared by Order in Council made under section 102 of the Merchant Shipping Act, 1894, to have the same force as if they were granted under that Act.

57 & 58
Vict., c. 60.

13. Any person who,—

- (a) having been engaged as one of the officers mentioned in section 11, goes to sea as such officer without being duly certificated, or

Penalty for
serving, etc.,
as a master,
mate or
engineer
without a
certificate.

(b) employs

- (b) employs a person as an officer in contravention of section 11, without ascertaining that the person so serving is duly certificated,

shall be liable for each such offence to a fine which may extend to five hundred rupees.

Grades of
certificates
of compe-
tency.

14. (1) Certificates of competency shall be granted in accordance with this Act for each of the following grades, namely : —

Master of foreign-going ship.

First mate of foreign-going ship.

Second mate of foreign-going ship.

Master of a home-trade ship.

Mate of a home-trade ship.

First class engineer.

Second class engineer.

Engine driver.

(2) A certificate of competency for a foreign-going ship shall be deemed to be of a higher grade than the corresponding certificate for a home-trade ship, and shall entitle the lawful holder thereof to go to sea in the corresponding grade in such last-mentioned ship; but no certificate for a home-trade ship shall entitle the holder to go to sea as master or mate of a foreign-going ship.

Examina-
tions for
certificates

15. The Local Government or a person duly authorised by the Local Government in this behalf shall appoint persons for the purpose of examining the qualifications of persons desirous of obtaining certificates of competency under this Act.

Grant of
certificates
on passing
examina-
tions.

16. The Local Government or such authorised person shall deliver to every applicant, who is duly reported by the examiners to have passed the examination satisfactorily and to have given satisfactory evidence of his sobriety, experience and ability and general good conduct on board ship, such a certificate of competency as the case requires :

Provided that the Local Government may, in any case in which it has reason to believe that the report
has

has been unduly made, require, before granting a certificate, a re-examination of the applicant or a further inquiry into his testimonials and character.

17. (1) A person who has attained the rank of Lieutenant in His Majesty's Navy or in the Royal Indian Marine shall be entitled to a certificate of service as the master of a foreign-going ship without examination.

Certificates
of service of
Naval Offi-
cers.

(2) A person who has attained the rank of engineer or assistant engineer in His Majesty's Navy or the Royal Indian Marine, shall be entitled without examination, if an engineer, to a certificate of service as first class engineer, and, if an assistant engineer, to a certificate of service as second class engineer.

(3) A certificate of service shall differ in form from a certificate of competency, and shall contain the name and rank of the person to whom it is delivered, and the Local Government shall deliver a certificate of service to any person who proves himself to be entitled thereto.

(4) The provisions of this Act (including the penal provisions) shall apply in the case of a certificate of service as they apply in the case of a certificate of competency.

18. Every certificate of competency granted under this Act shall be in the prescribed form and shall be made in duplicate, and one copy shall be delivered to the person entitled to the certificate, and the other shall be kept by the Local Government and recorded in the prescribed manner.

Form of
certificates

19. A note of all orders made for suspending, cancelling, altering or otherwise affecting any certificate of competency, in pursuance of the powers contained in this Act, shall be entered on the copy of the certificate kept by the Local Government.

Record of
orders affecting
certificates.

20. Whenever a master, mate, engineer or engine driver proves to the satisfaction of the Local Government by or under the authority of which his certificate was granted that he has, without fault on his part, lost or been deprived of a certificate already granted to him, the Local Government shall cause a copy

Loss of
certificate.

copy of the certificate, to which by the record kept in accordance with this Act he appears to be entitled, to be granted to him, and such copy shall have all the effect of the original.

Power to make rules as to grant of certificates of competency.

21. (1) The Local Government, with the previous sanction of the Governor General in Council, may make rules to regulate the granting of certificates of competency under this Act, and may, by such rules,—

- (a) provide for the conduct of the examination of persons desirous of obtaining certificates of competency as masters, mates, engineers, or engine drivers;
- (b) prescribe the qualifications to be respectively required of persons desirous of obtaining certificates of competency as masters, first mates, second mates, first class engineers, second class engineers, or engine drivers;
- (c) fix the fees to be paid by applicants for examination; and
- (d) prescribe the form in which such certificates are to be framed and the manner in which the copy of the certificate to be kept by the Local Government is to be recorded.

Production of certificates of competency to shipping-master.

22. (1) The master of a foreign-going ship—

- (a) on signing the agreement with his crew shall produce to the shipping-master, before whom the same is signed, the certificates of competency which the master, mate and engineers of the ship are by this Act required to hold; and
- (b) in the case of a running agreement shall, also, before the second and every subsequent voyage, produce to the shipping-master the certificate of competency of any mate or engineer then first engaged by him who is required by this Act to hold a certificate.

(2) The master or owner of every home-trade ship of more than three hundred tons burden shall produce to some shipping-master in British India, within
twenty-one

twenty-one days after the thirtieth of June and the thirty-first of December in every year, or (if the ship is not at any port in British India within twenty-one days after either the thirtieth of June or the thirty-first day of December in any year) within forty-eight hours after her next arrival at any port in British India, the certificates of competency which the master, mates and engineers of the ship are by this Act required to hold.

(3) Upon the production of the certificates of competency, the shipping-master shall, if the certificates are such as the master, mates and engineers of the ship ought to hold, give to the master a certificate to the effect that the proper certificates of competency have been so produced.

(4) The master shall, before proceeding to sea, produce the certificate given to him by the shipping-master to the Customs-collector, or, if there is no Customs-collector, to the officer whose duty it is to grant a port-clearance.

(5) No officer of Customs or other officer shall clear any such ship outwards without such production; and, if any ship attempts to go to sea without a clearance, any such officer may detain her until the certificate is produced.

Apprenticeships to the Sea Service.

23. (1) Subject to the provisions of the Apprentices Act, 1850, any boy may be bound as an apprentice in the sea service to the owner of any ship registered in British India to be employed in any such ship, being the property of such person, the master of which is a British subject, and while so employed to be taught the craft and duty of a seaman, and the provisions of the said Act shall, save as hereinafter provided in this section, apply accordingly.

Application
of Act XIX
of 1850.

(2) The master of any ship in which any apprentice bound to the sea service shall be appointed to serve by the party to whom he is bound shall be deemed to be the agent of such party for the purposes of the said Act.

(3) The

(3) The duties of the Magistrate under that Act in respect of the contract of apprenticeship and of the endorsements thereon of any assignment, alteration or cancellation of the contract and of the certification of the offer of the continuation of the contract by the executors or administrators of a deceased master of the apprentice shall be performed by the shipping-master of the port where the apprentice is to begin his service.

Licences to supply Seamen.

Licences to
supply
seamen.

24. (1) The Local Government or any person duly authorised by the Local Government in this behalf may grant to such persons as may be deemed fit licences to engage or supply seamen for merchant ships in British India.

(2) Any such licence shall continue for such period, and may be granted and revoked on such terms and conditions as the Local Government thinks proper.

Penalties for
engaging
seamen with-
out licence.

25. (1) A person shall not engage or supply a seaman to be entered on board any ship in British India unless that person either holds a licence under this Act for the purpose, or is the owner or master or mate of the ship, or is *bonâ fide* the servant and in the constant employ of the owner, or is a ship-master.

(2) A person shall not employ, for the purpose of engaging or supplying a seaman to be entered on board any ship in British India, any person unless that person either holds a licence under this Act for the purpose, or is the owner or master or mate of the ship, or is *bonâ fide* the servant and in the constant employment of the owner, or is a shipping-master.

(3) A person shall not receive or accept to be entered on board any ship any seaman if that person knows that the seaman has been engaged or supplied in contravention of this section.

(4) If a person acts in contravention of this section, he shall for each seaman in respect of whom

whom an offence is committed be liable to a fine which may extend to one hundred rupees, and, if a licensed person, shall forfeit his licence.

26. (1) A person shall not demand or receive, either directly or indirectly, from any seaman, or from any person seeking employment as a seaman, or from any person on his behalf, any remuneration whatever for providing him with employment other than the fees authorised by this Act. Penalty for receiving remuneration from seamen for shipping them.

(2) If a person acts in contravention of this section, he shall for each such offence be liable to a fine of fifty rupees, and, if a licensed person, shall forfeit his licence.

Engagement of Seamen.

27. (1) The master of every British ship, except home-trade ships of a burden not exceeding three hundred tons, shall enter into an agreement (in this Act called the agreement with the crew) in accordance with this Act with every seaman whom he engages in, and carries to sea as one of his crew from, any port in British India. Agreements with crew.

(2) If a master of a ship carries any seaman to sea without entering into an agreement with him in accordance with this Act, the master shall for each offence be liable to a fine which may extend to fifty rupees.

28. (1) An agreement with the crew shall be in a form sanctioned by the Governor General in Council, and shall be dated at the time of the first signature thereof, and shall be signed by the master before any seaman signs the same. Form and contents of the agreement.

(2) The agreement with the crew shall contain as terms thereof the following particulars, namely :—

- (a) either the nature and, as far as practicable, the duration of the intended voyage or engagement or the maximum period of the voyage or engagement, and the places or parts of the world, if any, to which

which the voyage or engagement is not to extend;

- (b) the number and description of the crew, specifying how many are engaged as sailors;
- (c) the time at which each seaman is to be on board or to begin work;
- (d) the capacity in which each seaman is to serve;
- (e) the amount of wages which each seaman is to receive;
- (f) a scale of the provisions which are to be furnished to each seaman, such scale being, in the case of lascars or other native seamen, not less than a scale to be fixed by the Local Government with the previous sanction of the Governor General in Council and published in the local official Gazette;
- (g) any regulations as to conduct on board and as to fines, short allowance of provisions or other lawful punishments for misconduct, which have been sanctioned by the Governor General in Council as regulations proper to be adopted, and which the parties agree to adopt; and
- (h) where it is agreed that the services of any lascar or other native seaman shall end at any port not in British India, a stipulation to provide him either fit employment on board some other ship bound to the port at which he was shipped or to such other port in British India as may be agreed on, or a passage to some port in British India free of charge or on such other terms as may be agreed upon, and in this provision the word "seaman" shall include also any native of British India carried to sea from any port in British India as one of the crew :

Provided

Provided that any such stipulation shall be signed by the owner of the ship or by the master on his behalf.

(3) The agreement with the crew shall be so framed as to admit of such stipulations to be adopted at the will of the master and seaman in each case (not being inconsistent with the provisions of any enactment for the time being in force relating to Merchant Shipping) as to advance of wages and supply of warm clothing, and may contain any other stipulations which are not contrary to law.

(4) If a master enters into an agreement with a lascar or other native seaman for a scale of provisions less than the scale fixed under this section, he shall be liable to a fine which may extend to two hundred rupees.

29. If the master of a ship registered at a port outside British India has an agreement with the crew made in due form according to the law of that port or of the port in which her crew were engaged and engages a single seaman not being a lascar or other native seaman in any port in British India, the seaman may sign the agreement so made, and it shall not be necessary for him to sign an agreement under this Act.

Engagement of single seaman where agreement is made out of British India

30. (1) The following provisions shall have effect with respect to the agreements with the crew made in British India in the case of foreign-going ships registered either within or without British India, namely :—

Special provisions with regard to agreements with crew of foreign-going ships.

- (a) The agreement shall, subject to the provisions of this Act as to substitutes, be signed by each seaman in the presence of a shipping-master.
- (b) The shipping-master shall cause the agreement to be read over and explained to each seaman, in a language understood by him, or shall otherwise ascertain that each seaman understands the same before

he signs it, and shall attest each signature.

- (c) When the crew is first engaged the agreement shall be signed in duplicate, and one part shall be retained by the shipping-master, and the other part shall be delivered to the master, and shall contain a special place or form for the descriptions and signatures of substitutes or persons engaged subsequently to the first departure of the ship.
- (d) When a substitute is engaged in the place of a seaman who has duly signed the agreement and whose services are lost within twenty-four hours of the ship's putting to sea by death, desertion, or other unforeseen cause, the engagement shall, if practicable, be made before a shipping-master, and if not practicable the master shall, before the ship puts to sea, if practicable, and, if not, as soon afterwards as possible, cause the agreement to be read over and explained to the substitute; and the substitute shall thereupon sign the same in the presence of a witness, who shall attest the signature.
- (e) The agreement may be made for a voyage of the ship or, if the voyages of the ship average less than six months in duration, may be made to extend over two or more voyages, and agreements so made are in this Act referred to as running agreements.
- (f) Save as otherwise provided in this section, running agreements shall not extend beyond the next following thirtieth day of June or thirty-first day of December, or the first arrival of the ship at her port of destination in British India after such date, or the discharge of cargo consequent upon that arrival.

(g) On

(g) On every return to a port in British India before the final termination of a running agreement, the master shall discharge or engage before the shipping-master at such port any seaman whom he is required by law so to discharge or engage; and shall upon every such return endorse on the agreement a statement (as the case may be) either that no such discharges or engagements have been made or are intended to be made before the ship leaves port. or that all those made have been made as required by law, and if the master wilfully makes a false statement in any such endorsement, he shall for each offence be liable to a fine which may extend to two hundred rupees.

(h) The master shall deliver the running agreement so endorsed to the shipping-master, and the shipping-master shall, if the provisions of this Act relating to agreements have been complied with. sign the endorsement and return the agreement to the master.

(2) In the case of a ship—

(a) registered in British India. or

(b) registered in the United Kingdom but not employed in trading with any port in the United Kingdom.

a running agreement may be made to extend over two or more voyages so that it shall terminate either within six months from the date on which it was executed, or on the first arrival of the ship at her port of destination in British India after the expiration of that period, or on the discharge of cargo consequent upon such arrival, whichever of these dates shall be the latest :

Provided that no such agreement shall continue in force if, after the expiration of such period of six months as aforesaid, the ship proceeds on a
voyage

voyage from a port out of British India to any other such port which is not on the direct road or a customary route to her port of destination in British India :

Provided, also, that every such agreement shall, in addition to any other particulars required by law, contain such stipulations for the discharge of the crew and payment of their wages, for securing their return to the port at which they were shipped or to some other port in British India, and for other purposes on the termination of the agreement at a port out of British India under the foregoing proviso, as the Governor General in Council may direct.

Renewal of
running
agreements
in certain
cases.

31. (1) When a running agreement has been made with the crew of a foreign-going ship and the ship arrives after the next following thirtieth day of June or thirty-first day of December, as the case may be, or after the expiration of a period of six months from the date on which it was executed at a port of destination in British India which is not the port at which the crew have agreed to be discharged, the master may, with the previous sanction of the shipping-master, renew the agreement with the crew, or may be required by the shipping-master so to renew the agreement for the voyage from such port of destination to the port in British India at which the crew have agreed to be discharged.

(2) If the master of the ship is required by the shipping-master to renew the agreement as aforesaid and refuses so to renew it, any expenses which may be incurred by Government for the subsistence of the crew and their conveyance to the port at which they have agreed to be discharged shall be a charge upon the ship, and shall be recoverable as if they were expenses incurred in respect of distressed seamen under the provisions of this Act.

Special pro-
visions as to
agreements
with crew of

32. The following provisions shall have effect with respect to the agreements with the crew of home-trade

trade ships for which an agreement with the crew is required under this Act, namely :—

home-trade
ship over
three
hundred tons
burden.

- (a) Agreements may be made either for service in a particular ship or for service in two or more ships belonging to the same owner, but, in the latter case, the names of the ships and the nature of the ships and the nature of the service shall be specified in the agreement.
- (b) Crews or single seamen may, if the master thinks fit, be engaged before a shipping-master in the same manner as they are required to be engaged for service in foreign-going ships, but, if the engagement is not so made, the master shall, before the ship puts to sea, if practicable, and, if not, as soon afterwards as possible, cause the agreement to be read over and explained to each seaman, and the seaman shall thereupon sign the same in the presence of a witness, and the witness shall attest the signature.
- (c) An agreement for service in two or more ships belonging to the same owner may be made by the owner instead of by the master, and the provisions of this Act with respect to the making of the agreement shall apply accordingly.
- (d) Agreements shall not extend beyond the next following thirtieth day of June or thirty-first day of December or the first arrival of the ship at her final port of destination in British India after such date, or the discharge of cargo consequent on that arrival :

Provided that the owner or his agent may enter into time agreements in forms sanctioned by the Governor General in Council with individual seamen to serve in any one or more ships belonging to such owner, which agreements need not expire on

either

either the thirtieth day of June or the thirty-first day of December.

Changes in
crew of
foreign going
ship to be
reported

33. (1) The master of every foreign-going ship, of which the crew has been engaged before a shipping-master, shall, before finally leaving British India, sign and send to the nearest shipping-master a full and accurate statement in a form sanctioned by the Governor General in Council, of every change which takes place in his crew before finally leaving British India and that statement shall be admissible in evidence.

(2) If any master fails without reasonable cause to comply with the requirements of this section, he shall be liable for each offence to a fine which may extend to fifty rupees.

Certificate as
to agreement
with crew of
foreign-going
ship.

34. (1) In the case of a foreign-going ship on the due execution of an agreement with the crew in accordance with this Act, and also, when the agreement is a running agreement, on compliance by the master, before the second and every subsequent voyage made after the first commencement of the agreement, with the provisions of this Act respecting that agreement, the shipping-master shall grant the master of the ship a certificate to that effect.

(2) The master of every foreign-going ship shall, before proceeding to sea, produce that certificate to the Customs-collector, or, if there is no Customs-collector, to the officer whose duty it is to grant a port-clearance.

(3) No officer of Customs or other officer shall clear any such ship outwards without such production; and, if any such ship attempts to go to sea without a clearance, any such officer may detain her until such certificate as aforesaid is produced.

(4) The master of every foreign-going ship shall, within forty-eight hours after the ship's arrival at her final port of destination in British India, or upon the discharge of the crew, whichever first happens, deliver such agreement to a shipping-master at the place; and such shipping-master shall thereupon
give

give to the master a certificate of such delivery; and no officer of Customs or other officer shall clear any foreign-going ship inwards without the production of such certificate.

(5) Any master who fails without reasonable cause so to deliver the agreement with the crew, shall be liable for each offence to a fine which may extend to fifty rupees

35. (1) The master or owner of a home-trade ship of more than three hundred tons burden shall, within twenty-one days after the thirtieth day of June and the thirty-first day of December in every year, or (if the ship is not at any port in British India within twenty-one days after either the thirtieth day of June or the thirty-first day of December) within forty-eight hours of her next arrival at a port in British India, deliver or transmit to a shipping-master in British India every agreement made within the six months next preceding such days respectively

Certificate as to agreement with crew of home-trade ship.

(2) The shipping-master on receiving such agreement shall give the master or owner of the ship a certificate to that effect; and no officer of Customs or other officer authorised to grant a port-clearance shall grant a clearance for any such ship without a production of the certificate, and, if any such ship attempts to go to sea without such clearance, any such officer may detain her until the certificate is produced.

(3) Any master or owner who fails, without reasonable cause, to comply with this section shall be liable for each offence to a fine which may extend to fifty rupees.

36. (1) The master shall, at the commencement of every voyage or engagement, cause a legible copy of the agreement and, if necessary, a translation thereof in a language understood by the majority of the crew (omitting the signatures), to be placed or posted up in such part of the ship as to be accessible to the crew.

Copy of agreement to be made accessible to the crew.

(2) Any master who fails without reasonable cause to comply with this section shall be liable for each

each offence to a fine which may extend to fifty rupees.

Alteration in
agreement
with the crew.

37. Every erasure, interlineation or alteration in any agreement with the crew (except additions made for the purpose of shipping substitutes or persons engaged subsequently to the first departure of the ship) shall be wholly inoperative, unless proved to have been made with the consent of all the persons interested in such erasure, interlineation or alteration by the written attestation (if made in His Majesty's dominions) of some shipping-master, Justice, officer of Customs, or other public functionary, or (if made out of His Majesty's dominions) of a British consular officer, or, where there is no such officer, of two respectable British merchants.

Engagement of Lascars by Masters of Foreign Ships.

Engagements
between
masters of
foreign ships
and lascars
or native
seamen. 4

38. (1) When the master of a foreign ship being at any port in British India engages any lascar or other native seaman to proceed to any port out of British India, he shall enter into an agreement with such seaman, and the agreement shall be made before a shipping-master in the manner provided by this Act for the making of agreements in the case of foreign-going ships.

(2) All the provisions of this Act, respecting the form of such agreements and the stipulations to be contained in them and the making and signing of the same, shall be applicable to the engagement of such seaman.

(3) The master of the foreign ship shall give to the shipping-master a bond with the security of some approved person resident in British India for an amount calculated at the rate of one hundred rupees for every such seaman and conditioned for the due performance of such agreement and stipulations, and for the repayment to the Secretary of State for India in Council of all expenses which may be incurred by Government in respect of any such lascar or other native seaman who is discharged or left behind at any port out of British India and becomes

becomes distressed and is relieved under the provisions of the Merchant Shipping Acts.

(4) The prescribed fees shall be payable in respect of every such engagement and deductions from the wages of seamen so engaged may be made to the extent and in the manner allowed under this Act.

39. If any lascar or other native seaman is engaged by the master of any foreign ship otherwise than is allowed in section 38, the master shall be liable to a fine which may extend to one hundred rupees for every seaman so engaged.

Penalty for master of foreign ship illegally engaging native seamen.

40. (1) The Local Government or such officer as it may appoint in this behalf may, by order in writing, prohibit any person from engaging in the territories subject to the said Government or in any specified portion of such territories, any native of India to serve as a seaman on any ship specified in such order, but in every case the reasons for the prohibition shall be stated in writing.

Power to prohibit engagement of native seamen.

(2) Whoever wilfully disobeys any such prohibition shall be liable to imprisonment for a term which may extend to three months, or to a fine which may extend to one thousand rupees, or to both.

41. (1) For the purpose of preventing seamen from being taken on board any British ship or lascars or native seamen being taken on board any foreign ship at any port in British India contrary to the provisions of this Act, any shipping-master or deputy shipping-master may enter at any time on board any such ship upon which he has reason to believe that seamen or lascars or native seamen, as the case may be, have been shipped, and may muster and examine the several seamen employed therein.

Power to board British ships and muster seamen.

(2) If any person obstructs a shipping-master or deputy shipping-master in the exercise of his powers under sub-section (1), he shall be liable to a fine which may extend to one hundred rupees.

Discharge of Seamen.

42. (1) When a seaman serving in a British foreign-going ship is, on the termination of his engagement,

Discharge before shipping-master.

engagement, discharged in British India, he shall, whether the agreement with the crew be an agreement for the voyage or a running agreement, be discharged in the manner provided by this Act in the presence of a shipping-master.

(2) If the master or owner of the ship acts in contravention of this section, he shall, for each offence, be liable to a fine which may extend to one hundred rupees.

(3) If the master or owner of a home-trade ship, of more than three hundred tons burden, so desires, the seamen of that ship may be discharged in the same manner as seamen discharged from a foreign-going ship.

Certificate of discharge and return of certificate to officer on discharge.

43. (1) The master shall sign and give to a seaman discharged from his ship in British India, either on his discharge or on payment of his wages, a certificate of his discharge in a form sanctioned by the Local Government specifying the period of his service and the time and place of his discharge.

(2) If a master acts in contravention of this section, he shall for each offence be liable to a fine which may extend to one hundred rupees.

(3) The master shall also, upon the discharge of every certificated officer, whose certificate of competency has been delivered to and retained by him, return the certificate to the officer, and if, without reasonable cause, he fails so to do, he shall for each offence be liable to fine which may extend to two hundred rupees.

Payment of Wages.

Master to deliver account of wages.

44. (1) The master of every British ship shall, before paying off or discharging a seaman, deliver at the time and in the manner provided by this Act a full and true account in a form sanctioned by the Local Government of the seaman's wages and of all deductions to be made therefrom on any account whatever.

(2) The

(2) The said account shall be delivered—

(a) where the seaman is not discharged before the shipping-master, to the seaman himself not less than twenty-four hours before his discharge or payment off; and

(b) where the seaman is to be discharged before a shipping-master, either to the seaman himself, at or before the time of his leaving the ship, or to the shipping-master not less than twenty-four hours before the discharge or payment off.

(3) If the master of a ship fails, without reasonable cause, to comply with this section, he shall for each offence be liable to a fine which may extend to fifty rupees.

45. (1) A deduction from the wages of a seaman shall not be allowed unless it is included in the account delivered in pursuance of this Act except in respect of a matter happening after the delivery.

Deductions
from wages
of seamen.

(2) The master shall, during the voyage, enter the various matters in respect of which the deductions are made, with the amount of the respective deductions as they occur, in a book to be kept for that purpose, and shall, if required, produce the book at the time of the payment of wages and also upon the hearing before any competent authority of any complaint or question relating to that payment.

46. (1) Where a seaman is discharged before a shipping-master in British India, he shall receive his wages through, or in the presence of, a shipping-master unless a competent Court otherwise directs, and in such a case, if the master or owner of the ship pays his wages in British India in any other manner, he shall for each offence be liable to a fine which may extend to one hundred rupees.

Payment of
wages before
shipping-
master.

(2) If the master or owner of a home-trade ship so desires, the seamen of that ship may receive their wages in the same manner as seamen discharged from a foreign-going ship.

47. (1) The master or owner of every ship shall pay to every seaman his wages within three days after

Time of pay-
ment of
wages.

after the cargo has been delivered or within five days after the seaman's discharge, whichever first happens, and the seaman shall at the time of his discharge be entitled to be paid on account a sum equal to one-fourth part of the balance due to him.

(2) If a master or owner fails without reasonable cause to make payment at that time, he shall pay to the seaman a sum not exceeding the amount of two days' pay for each of the days during which payment is delayed beyond the respective times, but the sum payable shall not exceed ten days' double pay.

(3) Any sum payable under this section may be recovered as wages.

Settlement
of wages

48. (1) Where a seaman is discharged and the settlement of his wages completed before a shipping-master, he shall sign in the presence of the shipping-master a release in a form sanctioned by the Local Government of all claims in respect of the past voyage or engagement, and the release shall also be signed by the master or owner of the ship and attested by the shipping-master.

(2) The release so signed and attested shall be retained by the shipping-master and shall operate as a mutual discharge and settlement of all demands between the parties thereto in respect of the past voyage or engagement.

(3) A copy of the release, certified under the hand of the shipping-master to be a true copy, shall be given by him to any party thereto requiring the same, and such copy shall be receivable in evidence upon any future question touching such claims, and shall have all the effect of the original of which it purports to be a copy.

(4) Where the settlement of a seaman's wages is by this Act required to be completed through, or in the presence of, a shipping-master, no payment, receipt or settlement made otherwise than in accordance with this Act shall operate or be admitted as evidence of the release or satisfaction of any claim.

(5) Upon any payment being made by a master before a shipping-master, the shipping-master shall,
if

if required, sign and give to the master a statement of the whole amount so paid, and this statement shall, as between the master and his employer, be admissible as evidence that the master has made the payments therein mentioned.

49. (1) Where any question of whatever nature and whatever the amount in dispute between a master or owner and any of his crew is raised before a shipping-master, and both parties agree in writing to submit the same to him, the shipping-master shall hear and decide the question so submitted, and an award made by him upon the submission shall be conclusive as to the rights of parties, and any document purporting to be such submission or award shall be *prima facie* evidence thereof.

Decision of questions by shipping-masters

(2) An award made by a shipping-master under this section may be enforced by a Magistrate in the same manner as an order for the payment of wages made by such Magistrate under this Act.

50. (1) In any proceedings under this Act before a shipping-master relating to the wages, claims or discharge of a seaman, the shipping-master may require the owner or his agent or the master or any mate or other member of the crew to produce any log-books, papers, or other documents in his possession or power relating to any matter in question in the proceedings, and may require the attendance of and examine any of those persons being then at or near the place on the matter.

Power of shipping-master to require production of ship's papers.

(2) If any person so required fails, without reasonable cause, to comply with the requisition, he shall for each offence be liable to a fine which may extend to fifty rupees.

51. Where a seaman or apprentice has agreed with the master of a British ship for payment of his wages in British currency, the seaman or apprentice shall be entitled to demand and recover in British Indian currency the amount due to him estimated according to the rate of exchange for the time being fixed by the Secretary of State for India in Council, with the concurrence of the Lords Commissioners of

Rate of exchange for payment of seamen in British Indian money.

His

His Majesty's Treasury for the adjustment of financial transactions between the Imperial and the Indian Governments.

Advance and Allotment of Wages.

Advances
and allot-
ments.

52 (1) Any agreement with the crew may contain a stipulation for payment to a seaman, conditional on his going to sea in pursuance of the agreement, of a sum not exceeding the amount of one month's wages payable to the seaman under the agreement.

(2) Stipulations for the allotment of a seaman's wages may be made in accordance with this Act.

(3) Save as aforesaid an agreement by or on behalf of the employer of a seaman for the payment of money to or on behalf of the seaman, conditional on his going to sea from any port in British India shall be void, and no money paid in satisfaction or in respect of any such agreement shall be deducted from the seaman's wages, and a person shall not have any right of action, suit or set off against the seaman or his assignee in respect of any money so paid or purporting to have been so paid.

Regulations
as to allot-
ment notes.

53. (1) Any stipulation made by a seaman at the commencement of a voyage for the allotment of any part of his wages during his absence shall be inserted in the agreement with the crew, and shall state the amounts and times of the payments to be made.

(2) A seaman may require that a stipulation be inserted in the agreement for the allotment, by means of an allotment note, of any part (not exceeding one-third) of his wages in favour either of a relative of the seaman or some member of his family to be named in the note.

(3) Allotment notes shall be in a form sanctioned by the Local Government.

Payment of
sums allotted.

54. (1) The owner or any agent who has authorised the drawing of an allotment note shall pay to the shipping-master on demand the sums due under
the

the note, and, if he fails to do so, the shipping-master may sue for and recover the same with costs :

Provided that no such sum shall be recoverable if it is shown to the satisfaction of the Court or Magistrate trying the case that the seaman has forfeited or ceased to be entitled to the wages out of which the allotment was to have been paid, but the seaman shall be presumed to be duly earning his wages unless the contrary is shown to the satisfaction of the Court or Magistrate either by the official statement of the change in the crew caused by his absence made and signed by the master as by this Act is required, or by a certified copy of some entry in the official log-book to the effect that he has died or left the ship, or by a credible letter from the master of the ship to the same effect, or by such other evidence, of whatever description, as the Court or Magistrate may consider sufficient.

(2) The shipping-master on receiving any such sum as aforesaid shall pay it over to the person named in that behalf in the allotment note.

(3) All such receipts and payments shall be entered in a book to be kept for the purpose, and all entries in the said book shall be authenticated by the signature of the shipping-master or the deputy shipping-master.

(4) The said book shall be at all reasonable times open to the inspection of the parties concerned.

Rights of Seamen in respect of Wages.

55. A seaman's right to wages and provisions shall be taken to begin either at the time at which he commences work or at the time specified in the agreement for his commencement of work or presence on board whichever first happens. Right to wages and provisions.

56. (1) A seaman shall not by any agreement forfeit his lien on the ship or be deprived of any remedy for the recovery of his wages to which in the absence of the agreement he would be entitled, and shall not by any agreement abandon his right to wages in case of the loss of the ship or abandon any right Right to recover wages and salvage not to be forfeited.

right that he may have or obtain in the nature of salvage, and every stipulation in any agreement inconsistent with any provisions of this Act shall be void

(2) Nothing in this section shall apply to a stipulation made by the seamen belonging to any ship which according to the terms of the agreement is to be employed on salvage service with respect to the remuneration to be paid to them for salvage service to be rendered by that ship to any other ship.

Wages not
to depend
on freight.

57. (1) The right to wages shall not depend on the earning of freight, and every seaman and apprentice who would be entitled to demand and recover any wages if the ship in which he has served had earned freight, shall, subject to all other rules of law and conditions applicable to the case, be entitled to demand and recover the same notwithstanding that freight has not been earned; but in all cases of wreck or loss of the ship, proof that the seaman has not exerted himself to the utmost to save the ship, cargo and stores shall bar his claim to wages.

(2) Where a seaman or apprentice who would but for death be entitled by virtue of this section to demand and recover any wages dies before the wages are paid, they shall be paid and applied in manner provided by this Act with respect to the wages of a seaman who dies during a voyage.

Wages on
termination
of service by
wreck or ill-
ness.

58. Where the service of a seaman terminates before the date contemplated in the agreement by reason of the wreck or loss of the ship, or of his being left on shore at any place out of British India under a certificate granted as provided by the Merchant Shipping Acts of his unfitness or inability to proceed on the voyage, he shall be entitled to wages up to the time of such termination, but not for any longer period.

Wages not
to accrue
during refu-
sal to work
or imprison-
ment.

59. A seaman or apprentice shall not be entitled to wages for any time during which he unlawfully refuses or neglects to work when required whether before or after the time fixed by the agreement for his commencement of such work nor, unless the Court hearing the case otherwise directs, for any period during

during which he is lawfully imprisoned for any offence committed by him.

60. Whenever in any proceeding relating to a seaman's or apprentice's wages it is shown that a seaman or apprentice has in the course of the voyage been convicted of any offence by a competent Court and rightly punished therefor by imprisonment or otherwise, the Court hearing the case may direct any part of the wages due to the seaman or apprentice not exceeding thirty rupees to be applied to reimbursing any cost properly incurred by the master in procuring the conviction and imprisonment.

Power to deduct from wages cost of procuring conviction.

61. If a seaman having signed an agreement is discharged otherwise than in accordance with the terms thereof before the commencement of the voyage or before one month's wages are earned without fault on his part justifying that discharge and without his consent, he shall be entitled to receive from the master or owner, in addition to any wages he may have earned, due compensation for the damage caused to him by the discharge not exceeding one month's wages, and may recover that compensation as if it were wages duly earned.

Compensation to seamen.

62. (1) As respects wages due or accruing to a seaman or apprentice—

Restriction on sale of and charge upon wages.

- (a) they shall not be subject to attachment by order of any Court;
- (b) an assignment or sale thereof made prior to the accruing thereof shall not bind the person making the same;
- (c) a power-of-attorney or authority for the receipt thereof shall not be irrevocable;
- (d) a payment of wages to a seaman or apprentice shall be valid in law notwithstanding any previous sale or assignment of those wages or any attachment or encumbrance thereof.

(2) Nothing in this section shall affect the provisions of this Act or any other law for the time being in force with respect to allotment notes.

Mode

Mode of recovering Wages.

Summary
proceedings
for wages.

63. A seaman or apprentice or a person duly authorised on his behalf may, as soon as any wages due to him not exceeding five hundred rupees become payable, sue for the same in a summary manner before any Magistrate exercising jurisdiction in or near the place at which his service has terminated or at which he has been discharged, or at which any person upon whom the claim is made is or resides, and the order made by the Magistrate in the matter shall be final.

Restriction
on suits for
wages.

64. A proceeding for the recovery of wages not exceeding five hundred rupees shall not be instituted by or on behalf of any seaman or apprentice in any Colonial Court of Admiralty or in any Civil Court other than the Court of Small Causes where such a Court exists, except—

- (a) where the owner of the ship is adjudged bankrupt or declared insolvent;
- (b) where the ship is under arrest or is sold by the authority of any Court; or
- (c) where a Magistrate under the authority of this Act refers a claim to the Court.

Remedies of
masters for
wages.

65. (1) The master of a ship shall, so far as the case permits, have the same rights, liens and remedies for the recovery of his wages as a seaman has under this Act or by any law or custom.

(2) If in any proceeding in any Colonial Court of Admiralty touching the claim of a master in respect of wages any right of set off or counter claim is set up, the Court may enter into and adjudicate upon all questions and settle all accounts then arising or outstanding and unsettled between the parties to the proceeding, and may direct payment of any balance found to be due.

Property of Deceased Seaman.

Master to
take charge
of the effects
of deceased
seamen.

66. (1) If any seaman or apprentice belonging to a British ship the voyage of which is to terminate in British India dies during that voyage, the master of

of the ship shall take charge of any money or effects belonging to the seaman or apprentice which are on board the ship.

(2) The master may, if he think fit, cause any effects to be sold by auction at the mast or otherwise by public auction.

(3) The master shall enter in the official log-book the following particulars, namely :—

(a) a statement of the amount of money and a description of the effects;

(b) in the case of a sale, a description of each article sold and the sum received for each; and

(c) a statement of the sum due to the deceased for wages and of the amount of deduction, if any, to be made from the wages.

(4) The said money, effects, proceeds of sale of effects, and balance of wages, are in this Act referred to as the property of the seaman or apprentice.

67. (1) The master shall, within forty-eight hours after his arrival at his port of destination in British India, deliver and pay the property of any deceased seaman or apprentice to the shipping-master at that port, and shall give to such shipping-master an account of the property so delivered and paid.

Disposal of property of seamen who die during the voyage.

(2) A deduction claimed by the master in such account shall not be allowed unless verified, if an official log-book is required to be kept, by an entry in that book, and also by such other vouchers, if any, as may be reasonably required by the shipping-master.

68. (1) If the master fails to comply with the provisions of this Act with respect to taking charge of the property of a deceased seaman or apprentice, or to making in the official log-book the proper entries relating thereto, or to the payment or delivery of the property, he shall be accountable for the property to the shipping-master as aforesaid, and shall pay and deliver the same accordingly and shall in addition, for each offence, be liable to a fine not exceeding treble the value of the property not accounted

Penalty for non-compliance with provisions as to property of deceased seamen.

accounted for or, if such value is not ascertained. not exceeding five hundred rupees.

(2) The property may be recovered in the same Court and manner in which the wages of seamen may be recovered under this Act.

Payment over property of deceased seamen by shipping-master.

69. Where any property of a deceased seaman or apprentice is paid or delivered to a shipping-master, the shipping-master, after deducting for expenses incurred in respect of that seaman or apprentice or of his property such sums as he thinks proper to allow, may—

(a) pay and deliver the residue to any claimants who can prove themselves to the satisfaction of the said shipping-master to be entitled thereto, and the said shipping-master shall be thereby discharged from all further liability in respect of the residue so paid or delivered; or

(b) if he thinks fit so to do, require probate or letters of administration or a certificate under the Succession Certificate Act, 1889, to be taken out, and thereupon pay VII of 1889 and deliver the residue to the legal representative of the deceased.

Disposal of unclaimed property of deceased seamen.

70. (1) Where no claim to the property of a deceased seaman or apprentice received by a shipping-master is substantiated within one year from the receipt thereof by such shipping-master, the shipping-master shall cause such property to be sold and pay the proceeds of the sale into the public treasury.

(2) If, after any money has been so paid into the public treasury, any claim is made thereto, then if the claim is established to the satisfaction of the shipping-master, the amount, or so much as shall appear to be due to the claimant, shall be paid to him, and if the claim is not so established the claimant may apply by petition to the High Court, and such Court, after taking evidence either orally or on affidavit, shall make such order on the petition as shall seem just:

Provided that, after the expiration of six years from the receipt of such property by the shipping-master

master, no claim to such property shall be entertained without the sanction of the Local Government.

Distressed Seamen.

71. (1) A¹ certificate of the Local Government or of such officer as the Local Government may appoint in this behalf to the effect that any seaman named therein is distressed shall in all proceedings under the Merchant Shipping Acts regarding the maintenance and relief of distressed seamen be conclusive evidence that such seaman is distressed within the meaning of those Acts.

Relief of distressed seamen to whom Merchant Shipping Acts apply,

(2) Any master of a British ship refusing to accept such seaman as a distressed seaman under the provisions of the said Acts shall for each seaman with respect to whom he so refuses be liable to a fine which may extend to one thousand rupees.

72. (1) Where any wages or expenses recoverable in respect of distressed seamen under the Merchant Shipping Acts are, under the said Acts, a charge upon any ship, or recoverable from any master, owner or other person, within the jurisdiction of any Court in British India, the Governor General in Council may, from time to time by notification in the Gazette of India, authorise, either generally or specially, such persons as he thinks fit to sue for and recover, in manner in the Merchant Shipping Acts provided, those wages or expenses.

Recovery of wages, etc., of distressed seamen under the Merchant Shipping Acts.

(2) Every person so authorised shall be entitled to sue and recover accordingly in any such Court, and shall be deemed to be a person filling a public office within the meaning of clause (7) of section 57 of the Indian Evidence Act, 1872.

I of 1872.

(3) All suits and proceedings under this section shall be instituted and carried on in the name of the Secretary of State for India in Council.

Relief of distressed Seamen to whom the Merchant Shipping Acts do not apply.

73. Nothing in the following provisions of this Part relating to distressed seamen shall apply to seamen

Provisions of the Act not to apply to seamen

or appren-
tices to
whom the
Merchant
Shipping
Acts apply.
Relief of dis-
tressed sea-
men at
British
Indian ports.

seamen or apprentices to whom the provisions of the Merchant Shipping Acts apply.

74. (1) Where any seamen or apprentices—

- (a) being Indian subjects of His Majesty are found at any place in British India and have been shipwrecked, discharged or left behind whether from any British ship or from any of His Majesty's ships and are in distress in that place, or who have been engaged by any person acting either as principal or agent to serve in any ship belonging to any foreign Power, or to the subject of any foreign State, and are in distress in British India; and
- (b) not being Indian subjects have been shipwrecked, discharged or left behind at any place in British India from any British ship registered in British India and are in distress in any such place,

the local authority may in accordance with the prescribed conditions provide for the subsistence of those seamen and apprentices (who are hereinafter referred to as distressed seamen) until such time as such authority is able to provide them with a passage as hereinafter provided.

(2) "Local authority", in relation to the provisions of this Act as to distressed seamen, means such person as the Local Government may, subject to the control of the Governor General in Council, appoint to exercise the powers conferred, and to perform the duties imposed, on the local authority under this Act.

Distressed
seamen to be
sent home }
on board }
British ship
wanting sea-
men to make
up its crew.

75. (1) Subject to the prescribed conditions the local authority may cause distressed seamen to be put on board some ship belonging to any subject of His Majesty which is in want of men to make up its complement and is bound—

- (a) in the case of distressed seamen who are Indian subjects of His Majesty, to their home

home or to a port in British India near their home;

(b) in the case of other British distressed seamen, to any port in the United Kingdom or the British possession to which they belong (as the case requires); and

(c) in the case of distressed seamen not being subjects of His Majesty, to such place as the local authority, subject to the control of the Governor General in Council, may in each case determine.

(2) In default of any such ship, the local authority may, subject as aforesaid, provide such distressed seamen with a passage in any ship (whether British or foreign) bound as aforesaid.

76. The local authority shall indorse on the agreement with the crew of any British ship on board of which any distressed seaman is sent the name of every person so sent on board thereof, with such particulars concerning the case as may be prescribed.

Name and other particulars with regard to seamen to be indorsed on agreement of British ship.

77. (1) The master of every British ship shall receive and afford a passage and subsistence to all distressed seamen whom he is required to take on board his ship under the provisions of section 75, not exceeding one for every fifty tons burden, and shall, during the passage, provide every such seaman with a proper berth or sleeping-place effectually protected against sea and weather.

Master of British ship compelled to convey and give subsistence to such seamen.

(2) If the master of any such ship fails or refuses to receive on board his ship, or to give a passage or subsistence to, or to provide for, any such seaman contrary to the provisions of sub-section (1), he shall, for each such seaman with respect to whom he so fails or refuses, be liable to a fine which may extend to one thousand rupees.

78. (1) When the master of a British ship has conveyed a distressed seaman in excess of the number (if any) wanted to make up the complement of his crew to any place in accordance with the requisition of a local authority under this Act, such master shall

Conditions under which master may claim payment.

shall be entitled to be paid by the Secretary of State for India in Council in respect of the subsistence and passage of such distressed seaman such sum *per diem* as the Governor General in Council may fix :

Provided that no such payment shall be made except on the production of the following documents (that is to say) :—

- (a) a certificate signed by the local authority by whose direction such distressed seaman was received on board, specifying the name of such seaman and the time when he was received on board; and
- (b) a declaration in writing by such master made and verified in manner hereinafter provided, and stating—
 - (i) the number of days during which such distressed seaman received subsistence and was provided for as aforesaid on board his ship;
 - (ii) the number of men and boys forming the complement of his crew;
 - (iii) the number of seamen and apprentices employed on board his ship during the time such distressed seaman was on board; and
 - (iv) every variation (if any) of such number.

(2) The declaration required by this section shall, in the case of a ship conveying Indian subjects of His Majesty to a port in British India, be made before a shipping-master or such other officer as the Local Government may appoint. In other cases such declaration shall be made and verified in the same manner as declarations made under section 48 of the Merchant Shipping Act, 1906.

G Edw. 7,
c. 48.

Wages and expenses incurred in respect of distressed seaman to be charged on ship to which

79. Where any expenses are incurred by a local authority under this Part on account of a distressed seaman either for his subsistence, necessary clothing, conveyance, home, and, in case he should die before reaching home, for his burial, those expenses (together

(together with the wages, if any, due to the seaman) shall be a charge upon the ship, whether British or foreign, to which he belonged. they belong in certain cases.

80. All such expenses and wages shall be recoverable with costs either from the master of such ship or from the person who is owner thereof for the time being, or, in the case of an engagement for service in a foreign ship, from such master or owner, or from the person by whom such engagement was so made, in the same manner as other debts due to the Secretary of State for India in Council, or in the same manner and by the same form and process in which wages due to the distressed seaman would be recoverable by him. Mode of recovering such wages and expenses.

81. (1) The Local Government may, by notification in the local official Gazette, authorise, either generally or specially, such persons as it thinks fit to sue for any such expenses and wages and recover the same. Local Government may authorise persons to recover same.

(2) Every person so authorised shall be entitled to sue and recover accordingly, and shall be deemed to be a person filling a public office within the meaning of clause (7) of section 57 of the Indian Evidence Act, 1872.

I of 1872.

82. When any such expenses and wages are due to or in respect of a distressed seaman (not being an Indian subject of His Majesty) belonging to a British ship registered in British India, they may, instead of being recovered by a person authorised under section 81, be recovered by the Board of Trade in manner provided by section 42 of the Merchant Shipping Act, 1906, and when so recovered shall be paid by the said Board to the Secretary of State for India in Council. Board of Trade may recover such amount from master or owner in certain cases.

6 Edw. 7,
c. 43.

83. In all proceedings under this Part, whether in British India or elsewhere, the production of a certificate signed by the local authority by which any distressed seaman named therein was relieved, or any expenses were incurred, under this Part, to the effect that such seaman was in distress, and that such expenses were incurred in respect of such seaman, shall be sufficient evidence that such seaman What shall be evidence of distress and expenses incurred.

was

was relieved, conveyed home or buried, as the case may be, at the expense of the revenues of India.

Power of
Governor
General in
Council to
make rules.

84. The Governor General in Council may make rules to determine under what circumstances and subject to what conditions distressed seamen may be relieved and provided with passages under this Part, and generally to carry out the provisions of this Part regarding distressed seamen.

Provisions, Health and Accommodation.

Complaints
as to provi-
sions or
water.

85. (1) If three or more of the crew of a British ship consider that the provisions or water for the use of the crew are at any time of bad quality, unfit for use or deficient in quantity, they may complain thereof to any shipping-master or other officer duly appointed in this behalf by the Local Government, and the shipping-master or other officer may either examine the provisions or water complained of or cause them to be examined.

(2) If the officer or person making the examination finds that the provisions or water are of bad quality and unfit for use or deficient in quantity, he shall signify it in writing to the master of the ship.

(3) If the master does not thereupon provide other proper provisions or water in lieu of any so signified to be of bad quality and unfit for use, or does not procure the requisite quantity of any provisions or water so signified to be deficient in quantity or uses any provisions or water so signified to be of bad quality and unfit for use, he shall be liable for each offence to a fine which may extend to two hundred rupees.

(4) The officer directing or the person making the examination shall enter a statement of the result of the examination in the official log-book, and shall, if he is not the shipping-master, send a report thereof to the shipping-master and that report shall be admissible in evidence in any legal proceeding.

(5) If the said officer certifies in that statement that there was no reasonable ground for the complaint, each of the complainants shall be liable to
forfeit

forfeit to the owner out of his wages a sum not exceeding one week's wages.

86. (1) In either of the following cases—

Allowance
for short or
bad provi-
sions.

- (i) if during the voyage the allowance of any of the provisions for which a seaman has by his agreement stipulated is reduced, (except in accordance with any regulations for reduction by way of punishment contained in the agreement with the crew, and also except for any time during which the seaman wilfully and without sufficient cause refuses or neglects to perform his duty or is lawfully under confinement for misconduct either on board or on shore); or
- (ii) if it is shown that any of those provisions are or have during the voyage been bad in quality or unfit for use;

the seaman shall receive by way of compensation for that reduction or bad quality according to the time of its continuance the following sums to be paid to him in addition to and to be recoverable as wages :—

- (a) if his allowance is reduced by not more than one-third of the quantity specified in the agreement a sum not exceeding three annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or one anna in the case of a lascar or native seaman;
- (b) if his allowance is reduced by more than one-third of such quantity, six annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or two annas in the case of a lascar or native seaman;
- (c) in respect of such bad quality as aforesaid, a sum not exceeding eight annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or three annas in the case of a lascar or native seaman.

(2) If

(2) If it is shown to the satisfaction of the Court before which the case is tried that any provisions, the allowance of which has been reduced, could not be procured or supplied in proper quantities, and that proper and equivalent substitutes were supplied in lieu thereof, the Court shall take those circumstances into consideration and modify or refuse the compensation as the justice of the case requires.

Medicines
to be provid-
ed and kept
on board cer-
tain ships.

87. (1) All foreign-going British ships and all home-trade ships of more than three hundred tons burden shall have always on board a sufficient supply of medicines and appliances suitable for diseases and accidents likely to happen on sea voyages according to such scale as is from time to time issued by the Local Government with the approval of the Governor General in Council and published in the local official Gazette.

(2) If any requirement in this section with respect to the provision of medicines and appliances is not complied with in the case of any ship, the owner or master of that ship shall for each offence be liable to a fine which may extend to two hundred rupees, unless he can prove that the non-compliance was not caused by his inattention, neglect or wilful default.

(3) This section shall not apply to ships navigating between the United Kingdom and any port in British India and to which section 200 of the Merchant Shipping Act, 1894, applies.

Weights
and measures
on board.

88. The master of a ship shall keep on board proper weights and measures for determining the quantities of the several provisions and articles served out and shall allow the same to be used at the time of serving out the provisions and articles in the presence of witnesses whenever any dispute arises about the quantities. If the master of a ship fails without reasonable cause to comply with this section, he shall for each offence be liable to a fine which may extend to one hundred rupees.

57 & 58
Vict., c 60.

89. (1) If

89. (1) If the master of, or a seaman or apprentice belonging to, a ship registered in British India receives any hurt or injury in the service of the ship, the expense of providing the necessary surgical and medical advice and attendance and medicine, and also the expenses of the maintenance of the master, seaman or apprentice until he is cured or dies or is brought back to the port from which he was shipped or other port agreed upon, and of his conveyance to that port, and in case of death, the expense, if any, of his burial, shall be defrayed by the owner of the ship without any deduction on that account from his wages.

Expenses
of medical
attendance
in case of
illness.

(2) Where any expenses referred to in this section have been paid by the master, seaman, or apprentice himself, the same may be recovered as if they were wages duly earned, and, if any such expenses are paid or allowed out of any money forming part of the revenues of India, the amount shall be a charge upon the ship and may be recovered with full costs of suit by the Secretary of State for India in Council.

90. (1) Every place in a British ship which is occupied by seamen or apprentices engaged under this Act and appropriated for their use shall have—

Accommo-
dation for
seamen.

(a) for each European seaman or apprentice or other person shipped on the same footing as a European seaman, a space of ten superficial feet if the place be not less than six feet in height from deck to deck, or sixty cubic feet if the height from deck to deck be less than six feet;

(b) for each lascar or native seaman or person shipped on the same footing as a lascar, six superficial and thirty-six cubic feet and, if the place allotted be under the top gallant forecastle, such forecastle deck shall be not less than four feet six inches above the one below it.

(2) In every case the place shall be below a well caulked and substantial deck, securely constructed

constructed, properly ventilated and properly protected from weather and sea.

(3) If any of the foregoing requirements of this section is not complied with in the case of any ship, the owner of the ship shall for each offence be liable to a fine which may extend to two hundred rupees.

(4) Every place so occupied and appropriated shall be kept free from goods and stores of any kind not being the personal property of the crew in use during the voyage.

(5) If any such place is not so kept free, the master shall for each offence be liable to a fine which may extend to one hundred rupees.

Inspection
of medicines
and appli-
ances and
accommoda-
tion.

91. (1) The shipping-master or deputy shipping-master at any port in British India may enter at any time on board any ship upon which seamen have been shipped at that port and inspect the medicines and appliances and the accommodation for seamen with which the ship is required to be provided by or under this Act or the Merchant Shipping Acts.

(2) If, on inspection, the provisions or water on board any ship are found to be of bad quality and unfit for use or deficient in quantity, the shipping-master shall proceed as provided in section 85, and the fine prescribed by the said section shall be incurred by any default of the master of the ship in respect of such provisions or water and the ship shall be detained until the defects are remedied to the satisfaction of the shipping-master.

Facilities for making Complaints.

Facilities
for making
complaints.

92. (1) If a seaman or apprentice, whilst on board ship, states to the master that he desires to make complaint to a Magistrate against the master or any of the crew, the master shall, so soon as the service of the ship will permit,

(a) if the ship is then at a place where there is a Magistrate, after such statement, and

(b) if

(b) if the ship is not then at such place, after her first arrival at such a place,

allow the complainant to go ashore or send him ashore in proper custody so that he may be enabled to make the complaint.

(2) If the master of a ship fails without reasonable cause to comply with the provisions of this section, he shall for each such offence be liable to a fine which may extend to one hundred rupees.

Protection of Seamen from Imposition.

93. Subject to the provisions of this Act, an assignment or sale of salvage payable to a seaman or apprentice made prior to the accruing thereof shall not bind the person making the same, and a power-of-attorney or authority for the receipt of any such salvage shall not be irrevocable.

Assign-
ment or sale
of salvage
invalid.

94. A debt exceeding in amount three rupees incurred by any seaman after he has engaged to serve shall not be recoverable until the service agreed for is concluded.

No debt
exceeding
three rupees
recoverable
till end of
voyage.

95. If a person demands or receives from a seaman or apprentice payment in respect of his board or lodging in the house of that person for a longer period than the seaman or apprentice has actually resided or boarded therein, that person shall for each offence be liable to a fine which may extend to one hundred rupees.

Penalty
for over-
charges by
lodging-
house-
keepers.

96. (1) If a person receives or takes into his possession or under his control any money or effects of a seaman or apprentice and does not return the same or pay the value thereof when required by the seaman or apprentice subject to such deduction as may be justly due to him from the seaman or apprentice in respect of board or lodging or otherwise or absconds therewith, he shall for each offence be liable to a fine which may extend to one hundred rupees.

Penalty
for detain-
ing seamen's
effects.

(2) Any Magistrate imposing a fine under this section may direct the amount of such money or the value

value of the effects subject to such deduction as aforesaid, if any, or the effects themselves to be forthwith paid or delivered to the seaman or apprentice.

Penalty
for solici-
tations by
lodging-
house-
keepers.

97. If within twenty-four hours after the arrival of a ship at a port in British India a person then being on board the ship solicits a seaman to become a lodger at the house of any person letting lodgings for hire, or takes out of the ship any effects of a seaman except under the personal direction of the seaman and with the permission of the master, he shall for each offence be liable to a fine which may extend to fifty rupees.

Penalty
for being on
board ship
without per-
mission be-
fore seamen
leave.

98. Where a ship is about to arrive or is arriving or has arrived at the end of the voyage and any person not being in His Majesty's service or not being duly authorised by law for the purpose goes on board the ship without the permission of the master before the seamen lawfully leave the ship at the end of their engagement or are discharged (whichever happens last), that person shall for each offence be liable to a fine which may extend to two hundred rupees, and the master of the ship may take him into custody and deliver him up forthwith to a police officer to be taken before a Magistrate to be dealt with according to the provisions of this Act.

Provisions as to Discipline

Miscon-
duct endan-
gering life or
ship.

99. If a master, seaman or apprentice belonging to a British ship by wilful breach of duty or by neglect of duty or by reason of drunkenness—

- (a) does any act tending to the immediate loss, destruction or serious damage of the ship or tending immediately to endanger the life or limb of a person belonging to or on board the ship; or
- (b) refuses or omits to do any lawful act proper and requisite to be done by him for preserving the ship from immediate loss, destruction or serious damage or for preserving

preserving any person belonging to or on board the ship from immediate danger to life or limb;

he shall be liable for every such offence to a fine which may extend to one thousand rupees or to imprisonment for a term which may extend to two years, or to both.

100. If a seaman lawfully engaged or an apprentice commits any of the following offences he shall, notwithstanding anything in the Code of Criminal Procedure, 1898, be liable to be tried in a summary manner and to be punished as follows:—

Desertion
and absence
without
leave.

V of 1898.

(i) if he deserts from his ship, he shall be guilty of the offence of desertion and be liable to forfeit all or any part of the effects he leaves on board and of the wages which he has then earned and also, if the desertion takes place at any place not in British India, to forfeit all or any part of the wages which he may earn in any other ship in which he may be employed until his next return to British India, and to satisfy any excess of wages paid by the master or owner of the ship from which he deserts to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him, and also he shall be liable to imprisonment for a term which may extend to twelve weeks;

(ii) if he neglects or refuses without reasonable cause to join his ship or to proceed to sea in his ship or is absent without leave at any time within twenty-four hours of the ship's sailing from a port either at the commencement or during the progress of a voyage, or is absent at any time without leave and without sufficient reason from his ship

or

or from his duty, he shall, if the offence does not amount to desertion or is not treated as such by the master, be guilty of the offence of absence without leave and be liable to forfeit out of his wages a sum not exceeding two days' pay and in addition for every twenty-four hours of absence either a sum not exceeding six days' pay, or any expenses properly incurred in hiring a substitute, and also he shall be liable to imprisonment for a term which may extend to ten weeks.

Convey-
ance of de-
serter or im-
prisoned sea-
man on board
ship

101. (1) If a seaman or apprentice is guilty of the offence of desertion or of absence without leave or otherwise absents himself from his ship without leave, the master, any mate, the owner, ship's husband or consignee of the ship may, with or without the assistance of police officers, convey him on board his ship, and those officers are hereby directed to give assistance if required.

(2) If the seaman or apprentice so requires, he shall first be taken before some Court capable of taking cognizance of the matter to be dealt with according to law.

(3) If it appears to the Court before whom the case is brought that the seaman or apprentice has been conveyed on board or taken before the Court on improper or insufficient grounds, that Court may inflict on the master, mate, owner ship's husband or consignee, as the case may be, a fine which may extend to two hundred rupees.

(4) The infliction of such fine shall be a bar to any action for false imprisonment in respect of the arrest.

(5) If a seaman or apprentice is imprisoned for having been guilty of the offence of desertion or of absence without leave, or for having committed any other breach of discipline, and during his imprisonment and before his engagement is
at

at an end his services are required on board his ship, any Magistrate may, on the application of the master or of the owner or his agent, notwithstanding that the period of his imprisonment is not at an end, cause the seaman or apprentice to be conveyed on board his ship for the purpose of proceeding on the voyage, or to be delivered to the master or any mate of the ship, or to the owner or his agent, to be by them so conveyed.

102. Where a seaman or apprentice is brought before a Court on the ground of the offence of desertion or of absence without leave or of otherwise absenting himself without leave, the Court, if the master or the owner, or his agent, so requires, may, in lieu of committing him to prison, cause him to be conveyed on board his ship for the purpose of proceeding on the voyage, or deliver him to the master or any mate of the ship or the owner or his agent, to be by them so conveyed, and may in such case order any costs and expenses properly incurred by or on behalf of the master or owner by reason of the conveyance to be paid by the offender and if necessary, to be deducted from any wages which he has then earned or by virtue of his then existing engagement may afterwards be earned.

Power to Court to order offender to be taken on board ship.

103. If a seaman lawfully engaged or an apprentice commits any of the following offences (in this Act referred to as offences against discipline), he shall, notwithstanding anything in the Code of Criminal Procedure, 1898, be liable to be tried in a summary way and to be punished as follows, namely:—

General offences against discipline.

- (i) if he quits the ship without leave after her arrival at her port of delivery and before she is placed in security, he shall be liable to forfeit out of his wages a sum not exceeding one month's pay;
- (ii) if he is guilty of wilful disobedience to any lawful command, he shall be liable to imprisonment for a period which may extend to four weeks and shall also be liable

- liable to forfeit out of his wages a sum not exceeding two days' pay;
- (iii) if he is guilty of continued wilful disobedience to lawful commands or continued wilful neglect of duty, he shall be liable to imprisonment for a term which may extend to twelve weeks, and shall also be liable for every twenty-four hours' continuance of such disobedience or neglect for a sum not exceeding six days' pay or any expenses which may have been properly incurred in hiring a substitute;
 - (iv) if he assaults the master or any mate or a certificated engineer of the ship, he shall be liable to imprisonment for a term which may extend to twelve weeks;
 - (v) if he combines with any of the crew to disobey lawful commands or to neglect duty or to impede the navigation of the ship or the progress of the voyage, he shall be liable to imprisonment for a term which may extend to twelve weeks;
 - (vi) if he wilfully damages his ship or commits criminal misappropriation or breach of trust in respect of or wilfully damages any of her stores or cargo he shall be liable to forfeit out of his wages a sum equal to the loss thereby sustained, and also to imprisonment for a term which may extend to twelve weeks;
 - (vii) if he is convicted of any act of smuggling whereby loss or damage is occasioned to the master or owner of the ship, he shall be liable to pay to that master or owner a sum sufficient to re-imburse the loss or damage, and the whole or a proportionate part of his wages may be retained in satisfaction on account of that liability without prejudice to any further remedy.

104. (1) If a seaman on or before being engaged wilfully and fraudulently makes a false statement of the name of his last ship or alleged last ship or wilfully and fraudulently makes a false statement of his own name, he shall for each offence be liable to a fine which may extend to fifty rupees.

Penalty for false statement as to last ship or name.

(2) The fine may be deducted from any wages the seaman may earn by virtue of his engagement as aforesaid and shall, subject to re-imbursement of the loss or expenses, if any, occasioned by any desertion previous to the engagement, be paid and applied in the same manner as other fines under this Act.

105. If any offence within the meaning of this Act of desertion or absence without leave or against discipline is committed, or if any act of misconduct is committed for which the offender's agreement imposes a fine and it is intended to enforce the fine,—

Entry of offences in official log.

- (i) an entry of the offence or act shall be made in the official log-book and signed by the master and also by the matè or one of the crew; and
- (ii) the offender, if still in the ship, shall, before the next subsequent arrival of the ship at any port, or, if she is at the time in port, before her departure therefrom, either be furnished with a copy of the entry or have the same read over distinctly and audibly to him and may thereupon make such reply thereto as he thinks fit; and
- (iii) a statement of a copy of the entry having been so furnished or the entry having been so read over and in either case the reply, if any, made by the offender shall likewise be entered and signed in manner aforesaid; and
- (iv) in any subsequent legal proceedings the entries by this section required shall, if practicable,

practicable, be produced or proved, and, in default of that production or proof, the Court hearing the case may, in its discretion, refuse to receive evidence of the offence or act of misconduct.

Report of
desertions
and absences
without
leave.

106. (1) Whenever any seaman or apprentice not shipped in British India deserts or otherwise absents himself in British India without leave from a British ship in which he is engaged to serve, the master of the ship shall, within forty-eight hours of discovering such desertion or absence, report the same to the shipping-master or to such other officer as the Local Government appoints in this behalf, unless, in the meantime, the deserter or absentee returns.

(2) Any master wilfully neglecting to comply with the provisions of this section shall be liable to a fine which may extend to one hundred rupees, or to imprisonment for a term which may extend to one month, or to both.

Entries
and certifi-
cates of de-
sertion
abroad.

107. (1) In every case of desertion from a ship registered in British India whilst such ship is at any place out of British India, the master shall produce the entry of the desertion in the official log-book to the person authorised by the Merchant Shipping Act, 1906, to grant certificates for leaving sea- 6 Edw. 7,
men behind abroad: and that person shall thereupon c. 48.
make and certify a copy of the entry.

(2) The master shall forthwith transfer such copy to the shipping-master at the port at which the seaman or apprentice was shipped, and the shipping-master shall, if required, cause the same to be produced in any legal proceeding.

(3) Such copy, if purporting to be so made and certified as aforesaid, shall, in any legal proceeding relating to such desertion, be admissible in evidence.

Facilities for
proving
desertion in
proceeding
for forfei-
ture of
wages.

108. (1) Whenever a question arises whether the wages of any seaman or apprentice are forfeited for desertion from a ship, it shall be sufficient for the person insisting on the forfeiture to show that the
seaman

seaman or apprentice was duly engaged in or belonged to the ship, and either that he left the ship before the completion of the voyage or engagement or, if the voyage was to terminate in British India and the ship has not returned, that he is absent from her and that an entry of his desertion has been duly made in the official log-book.

(2) The desertion shall thereupon, so far as relates to any forfeiture of wages under this Part, be deemed to be proved unless the seaman or apprentice can produce a proper certificate of discharge or can otherwise show to the satisfaction of the Court that he had sufficient reasons for leaving his ship.

109. (1) Where any wages or effects are under this Act forfeited for desertion from a ship, they shall be applied towards re-imbursing the expenses caused by the desertion to the master or the owner of the ship and, subject to that re-imburement, shall be paid into the public treasury and carried to the account of Government.

Application of forfeitures.

(2) For the purposes of such re-imburement the master or the owner or his agent may, if the wages are earned subsequent to the desertion, recover them in the same manner as the deserter could have recovered them if not forfeited; and the Court in any legal proceeding relating to such wages may order them to be paid accordingly.

(3) Where wages are forfeited under the foregoing provisions of this Act in any case other than for desertion, the forfeiture shall, in the absence of any specific provision to the contrary, be for the benefit of the master or owner by whom the wages are payable.

110. Any question concerning the forfeiture of or deductions from the wages of a seaman or apprentice may be determined in any proceeding lawfully instituted with respect to those wages notwithstanding that the offence in respect of which the question arises, though by this Act made punishable by imprisonment as well as forfeiture, has not been made the subject of any criminal proceeding.

Decision of questions of forfeiture and deduction in suits for wages.

111. (1) If

Ascertain-
ment of
amount of
forfeiture
out of wages.

111. (1) If a seaman contracts for wages by the voyage or by the run or by the share and not by the month or other stated period of time, the amount of forfeiture to be incurred under this Act shall be an amount bearing the same proportion to the whole wages or share as a month or any other period here-inbefore mentioned in fixing the amount of forfeiture (as the case may be) bears to the whole time spent in the voyage or run.

(2) If the whole time spent in the voyage or run does not exceed the period for which the pay is to be forfeited, the forfeiture shall extend to the whole wages or share.

Payment of
fines imposed
under agree-
ment to ship-
ping-master.

112. (1) Every fine imposed on a seaman for any act of misconduct for which his agreement imposes a fine shall be deducted and paid over as follows, namely :—

(i) if the offender is discharged at any port or place in British India, and the offence and such entries in respect thereof as aforesaid are proved, in the case of a foreign-going ship to the satisfaction of the shipping-master before whom the offender is discharged, and in the case of a home-trade ship to the satisfaction of the shipping-master at or nearest to the place at which the crew is discharged, the master or owner shall deduct such fine from the wages of the offender and pay the same over to such shipping-master; and

(ii) if before the final discharge of the crew in British India, any such offender as aforesaid enters into any of His Majesty's ships or is discharged at any place not in British India, and the offence and such entries as aforesaid are proved to the satisfaction of the officer in command of the ship into which he so enters or of the consular officer, officer of Customs, or other person by whose sanction

sanction he is so discharged, the fine shall thereupon be deducted as aforesaid, and an entry of such deduction shall then be made in the official log-book (if any) and signed by such officer or other person; and on the return of the ship to British India, the master or owner shall pay over such fine in the case of foreign-going ships to the shipping-master before whom the crew is discharged, and in the case of home-trade ships to the shipping-master at or nearest to the place at which the crew is discharged.

(2) If any master or owner neglects or refuses so to pay over the fine, he shall for each such offence incur a penalty not exceeding six times the amount of the fine retained by him.

(3) An act of misconduct for which any such fine has been inflicted and paid shall not be otherwise punished under the provisions of this Act.

113. If a person by any means whatever persuades or attempts to persuade a seaman or apprentice to neglect or refuse to join or proceed to sea in or desert from his ship, or otherwise to absent himself from his duty, he shall for each offence in respect of each seaman or apprentice be liable to a fine which may extend to one hundred rupees.

Penalty for enticing to desert.

114. If a person wilfully harbours or secretes a seaman or apprentice who has wilfully neglected or refused to join or has deserted from his ship, knowing or having reason to believe the seaman or apprentice to have so done, he shall for every seaman or apprentice so harboured or secreted be liable to a fine which may extend to one hundred rupees.

Penalty for harbouring deserters.

115. (1) If a person secretes himself and goes to sea in a ship without the consent of either the owner, consignee or master, or of a mate, or of the person in charge of the ship or of any other person entitled to give that consent, he shall be liable to a fine which may extend to two hundred rupees, or to imprisonment for a term which may extend to four weeks.

Penalty on stowaways and discipline of stowaways and seamen carried under compulsion.

(2) Every

(2) Every sea-faring person whom the master of a ship is under the authority of this Act or any other law compelled to take on board and convey, and every person who goes to sea in a ship without such consent as aforesaid, shall, so long as he remains in the ship, be subject to the same laws and regulations for preserving discipline and to the same fines and punishments for offences constituting or tending to a breach of discipline as if he were a member of, and had signed the agreement with, the crew.

Procedure where seaman or apprentice not shipped in British India is imprisoned on complaint of master or owner.

116. (1) If any seaman or apprentice who is not shipped in British India is imprisoned on complaint made by or on behalf of the master or owner of the ship or for any offence for which he has been sentenced to imprisonment for a term not exceeding one month, then--

(a) while such imprisonment lasts, no person shall, without the previous sanction in writing of the Local Government or of such officer as it may appoint in this behalf, engage any native of India to serve as a seaman on board such ship; and

(b) the Local Government or such officer as it may appoint in this behalf may tender such seaman or apprentice to the master or owner of the ship in which he is engaged to serve, and if such master or owner, without assigning reasons satisfactory to the Local Government or to such officer as aforesaid, refuses to receive him on board, may require such master or owner to deposit in the local shipping office--

(i) the wages due to such seaman or apprentice and his money and effects; and

(ii) such sum as may, in the opinion of the Local Government or such officer as aforesaid, be sufficient to defray the cost of the passage of such seaman or apprentice to the port at which he was shipped according to the scale of

of costs usual in the case of distressed seamen.

(2) If any person wilfully disobeys the prohibition contained in clause (a) of sub-section (1), he shall be liable to imprisonment for a term which may extend to three months, or to a fine which may extend to one thousand rupees, or to both.

(3) Any master or owner refusing or neglecting to deposit any wages, money, effects or sum when so required by this section, shall be liable to a fine which may extend to five hundred rupees.

117. If any seaman or apprentice who is not shipped in British India is imprisoned for any offence for which he has been sentenced to imprisonment for a term not exceeding one month, and if during such imprisonment and before his engagement is at an end his services are required on board his ship, any Magistrate may, at the request of the master or owner or his agent, cause the seaman or apprentice to be conveyed on board the ship for the purpose of proceeding on the voyage or to be delivered to the master or any mate of the ship or to the owner or his agent to be by them so conveyed, notwithstanding that the period for which he was sentenced to imprisonment has not terminated.

Power to send on board seaman or apprentice not shipped in British India who is undergoing imprisonment.

118. (1) If during the progress of a voyage the master of any ship registered in British India is removed or superseded or for any other reason quits the ship and is succeeded in the command by some other person, he shall deliver to his successor the various documents relating to the navigation of the ship and the crew thereof which are in his custody, and shall in default be liable to a fine which may extend to one thousand rupees.

On change of master, documents to be handed over to successor.

(2) Such successor shall immediately on assuming the command of the ship enter in the official log-book a list of the documents so delivered to him.

Leaving Seamen or Apprentices in British India.

119. (1) No seaman or apprentice who was not shipped in British India shall be discharged at any port

Discharge or leaving behind in British India of

seamen or
apprentices
not shipped
in British
India.

port in British India without the previous sanction in writing of such officer as the Local Government appoints in this behalf. Such sanction shall be given or withheld at the discretion of the officer so appointed, but, whenever it is withheld, the reasons for so withholding it shall be recorded by him in writing.

(2) If any person discharges a seaman or apprentice in wilful disobedience to the prohibition contained in sub-section (1), he shall be liable to imprisonment for a term which may extend to three months, or to a fine which may extend to one thousand rupees, or to both.

Official Logs.

Official logs
to be kept
and to be
dated.

120. (1) An official log shall be kept in every ship registered in British India except home-trade ships not exceeding three hundred tons burden in the form sanctioned by the Local Government.

(2) The official log may, at the discretion of the master or owner, be kept distinct from or united with the ordinary ship's log so that in all cases the spaces in the official log-book be duly filled up.

(3) An entry required by this Act in the official log-book shall be made as soon as possible after the occurrence to which it relates, and, if not made on the same day as that occurrence, shall be made and dated so as to show the date of the occurrence and of the entry respecting it; and if made in respect of an occurrence happening before the arrival of the ship at her final port of discharge, shall not be made more than twenty-four hours after that arrival.

(4) Every entry in the official log-book shall be signed by the master and by the mate or some other of the crew and also—

(a) if it is an entry of injury or death, shall be signed by the Surgeon or medical practitioner on board, if any; and

(b) if

(b) if it is an entry of wages due to or of the sale of the effects of a seaman or apprentice who dies, shall be signed by the mate and by some member of the crew besides the master; and

(c) if it is an entry of wages due to a seaman who enters His Majesty's naval service, shall be signed by the seaman or by the officer authorised to receive the seaman into that service.

(5) Every entry made in an official log-book in the manner provided by this Act shall be admissible in evidence.

121. The master of a ship for which an official log is required shall enter or cause to be entered in the official log-book the following matters, namely :—

Entries required in official log-book.

- (i) every conviction by a legal tribunal of a member of his crew, and the punishment inflicted;
- (ii) every offence committed by a member of his crew for which it is intended to prosecute or to enforce a forfeiture or exact a fine together with such statement concerning the reading over of that entry, and concerning the reply (if any) made to the charge as is by this Act required;
- (iii) every offence for which punishment is inflicted on board and the punishment inflicted;
- (iv) a statement of the conduct, character, and qualifications of each of his crew, or a statement that he declines to give an opinion on those particulars;
- (v) every case of illness or injury happening to a member of the crew with the nature thereof, and the medical treatment adopted (if any);
- (vi) every case of death happening on board and the cause thereof;

(vii) every

- (vii) every birth happening on board with the sex of the infant and the names of the parents;
- (viii) every marriage taking place on board with the names and ages of the parties;
- (ix) the name of every seaman or apprentice who ceases to be a member of the crew otherwise than by death, with the place, time, manner and cause thereof;
- (i) the wages due to any seaman who enters His Majesty's naval service during the voyage;
- (ii) the wages due to any seaman or apprentice who dies during the voyage and the gross amount of all deductions to be made therefrom;
- (xi) the sale of the effects of any seaman or apprentice who dies during the voyage, including a statement of each article sold and of the sum received for it;
- (iii) every collision with any other ship and the circumstances under which the same occurred.

Offences in
respect of
official logs.

122. (1) If an official log-book is not kept in the manner required by this Act, or if an entry directed by this Act to be made therein is not made at the time and in the manner directed by this Act, the master shall, if no other penalty is provided by this Act, be liable for each offence to a fine which may extend to fifty rupees.

(2) If any person makes or procures to be made or assists in making any entry in any official log-book in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge more than twenty-four hours after such arrival, he shall for each offence be liable to a fine which may extend to three hundred rupees.

(3) If any person wilfully destroys or mutilates or renders illegible any entry in any official log-book or wilfully makes or procures to be made or assists

in

in making a false or fraudulent entry in or omission from an official log-book, he shall be liable to imprisonment for a term which may extend to one year.

123. (1) The master of every foreign-going ship shall, within forty-eight hours after the ship's arrival at her final port of destination in British India or upon the discharge of the crew, whichever first happens, deliver the official log-book of the voyage to the shipping-master before whom the crew is discharged.

Delivery of official logs to shipping masters.

(2) The master or owner of every home-trade ship, for which an official log is required to be kept, shall, within twenty-one days of the thirtieth day of June and the thirty-first day of December in every year, transmit or deliver to some shipping-master in British India the official log-book for the preceding half-year.

(3) If the master or owner of a ship fails without reasonable cause to comply with this section, he shall be liable to a fine which may extend to two hundred rupees.

124. (1) Where, by reason of transfer of ownership or change of employment of a ship, the official log ceases to be required in respect of the ship or to be required on the same date, the master or owner of the ship shall, if the ship is then in British India, within one month, and, if she is elsewhere, within six months, after the cessation, deliver or transmit to the shipping-master at the port to which the ship belonged the official log-book, if any, duly made out at the time of the cessation.

Official logs to be sent to shipping-master in case of transfer of ship and in case of loss.

(2) If a ship is lost or abandoned, the master or owner thereof shall, if practicable, and as soon as possible, deliver or transmit to the shipping-master at the port to which the ship belonged the official log-book, if any, duly made out to the time of the loss or abandonment.

(3) If the master or owner of the ship fails without reasonable cause to comply with the provisions of this section, he shall for each offence be liable to a fine which may extend to one hundred rupees.

Part III.

PART III.

PASSENGER SHIPS.

Survey of Passenger Ship.

No steam-
ship to carry
passengers
without a
certificate of
survey.

125. (1) No steam-ship shall carry more than twelve passengers between places in British India or to or from any place in British India from or to any place out of British India, unless she has a certificate of survey under this Part in force and applicable to the voyage on which she is about to proceed or the service on which she is about to be employed.

(2) Nothing in sub-section (1) shall apply to--

- (a) any steam-ship having a certificate of survey granted by the Board of Trade, or by the Government of any part of His Majesty's dominions where such certificate has been declared under section 284 of the Merchant Shipping Act, 1894,^{57 & 58 Vict., c 60.} to be of the same force as if granted under that Act, unless it appears from the certificate that it is inapplicable to the voyage on which the steam-ship is about to proceed or the service on which she is about to be employed, or unless there is reason to believe that the steam-ship has, since the grant of the certificate, sustained injury or damage or been found unseaworthy or otherwise inefficient; or
- (b) any steam-ship having a certificate of survey granted under the Inland Steam Vessels Act, 1917, in force and applicable to the voyage on which the steam-ship is about to proceed or the service on which she is about to be employed; or^{I of 1917.}
- (c) any steam-ship carrying passengers during the interval between the time at which her certificate of survey under this Part expires and the time at which it is first practicable

practicable to have the certificate renewed.

126. The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, declare that all or any of the provisions of this Part relating to the survey of steam-ships shall not apply in the case of any specified steam-ship or class of steam-ships, or shall apply thereto with such modifications as the Local Government may direct.

Power for Local Government to exempt certain steam-ships.

127. No officer of Customs shall grant a port-clearance, nor shall any pilot be assigned, to any steam-ship for which a certificate of survey is required by this Part until after the production by the owner or master thereof of a certificate under this Part in force and applicable to the voyage on which she is about to proceed and the service on which she is about to be employed.

No port-clearance until certificate of survey produced.

128. If any steam-ship for which a certificate of survey is required by this Part leaves or attempts to leave any port of survey without a certificate, any officer of Customs or any pilot on board the steam-ship may detain her until she obtains a certificate.

Power to detain steam-ship not having certificate of survey.

129. The Local Government may appoint so many persons as it thinks fit to be surveyors for the purposes of this Part at such ports within the territories under its administration as it may appoint to be ports of survey.

Appointment of surveyors and ports of survey.

130. (1) For the purposes of a survey under this Part, any surveyor appointed under this Part may, at any reasonable time, go on board a steam-ship, and may inspect the steam-ship and any part thereof, and the machinery, equipments or articles on board thereof :

Powers of surveyor.

Provided that he does not unnecessarily hinder the loading or unloading of the steam-ship, or unnecessarily detain or delay her from proceeding on any voyage.

(2) The owner, master and officers of the steam-ship shall afford to the surveyor all reasonable facilities for a survey, and all such information respecting

respecting the steam-ship and her machinery and equipments, or any part thereof, respectively, as he reasonably requires.

Fees in respect of surveys

131. Before a survey under this Part is commenced, the owner or master of the steam-ship to be surveyed shall pay to such officer as the Local Government may appoint in this behalf—

- (a) a fee calculated on the tonnage of the steam-ship according to the rates in Schedule II or according to any other prescribed rates; and
- (b) when the survey is to be made in any port of survey other than Calcutta, Madras, Bombay or Rangoon, such additional fee, in respect of the expense (if any) of the journey of the surveyor to the port, as the Local Government may, by notification in the local official Gazette, direct.

Power for Local Government to direct that two surveyors be employed.

132. A survey under this Part shall ordinarily be made by one surveyor, but two surveyors may be employed if the Local Government, by order in writing, so directs, either generally in the case of all steam-ships at any port of survey, or specially in the case of any particular steam-ship or class of steam-ships at any such port.

Division of duties when two surveyors employed

133. When a survey is made under this Part by two surveyors, each of the surveyors making the survey shall perform a prescribed portion of the duties assigned by this Part or the rules made thereunder to a surveyor making a survey.

Declaration of surveyor

134. When a survey under this Part is completed, the surveyor making it shall forthwith, if satisfied that he can with propriety do so, give to the owner or master of the steam-ship surveyed a declaration of survey in the prescribed form containing the following particulars, namely:—

- (a) that the hull and machinery of the steam-ship are sufficient for the service intended and in good condition;
- (b) that the equipments of the steam ship and the certificates of the master, mate or mates

mates, and engineer or engineers or engine-driver, are such and in such condition as are required by any law for the time being in force and applicable to the steam-ship;

- (c) the time (if less than one year) for which the hull, machinery and equipments of the steam-ship will be sufficient;
- (d) the limit (if any) beyond which, as regards the hull, machinery or equipments, the steam-ship is in the surveyor's judgment not fit to ply;
- (e) the number of passengers which the steam-ship is, in the judgment of the surveyor, fit to carry, distinguishing, if necessary, between the respective numbers to be carried on the deck and in the cabins and in different parts of the deck and cabins; the number to be subject to such conditions and variations, according to the time of year, the nature of the voyage, the cargo carried or other circumstances, as the case requires; and
- (f) any other prescribed particulars.

135. (1) The owner or master to whom a declaration of survey is given shall, within fourteen days after the date of the receipt thereof, send the declaration to such officer as the Local Government may appoint in this behalf.

Sending of declaration by owner or master to Local Government

(2) If he fails to do so, he shall forfeit a sum not exceeding five rupees for every day during which the sending of the declaration is delayed.

(3) The owner or master shall pay any sum so forfeited on the delivery of the certificate of survey.

136. (1) Upon receipt of a declaration of survey, the Local Government shall, if satisfied that the provisions of this Part have been complied with, cause a certificate, in duplicate, to be prepared and delivered, through such officer at the port at which the steam-ship was surveyed as the Local Government may appoint in this behalf, to the owner or master of the

Grant of certificate of survey by Local Government.

the steam-ship surveyed, on his applying and paying the sums (if any) mentioned in this Part as payable on delivery of a certificate.

(2) A certificate granted under this section shall be in the prescribed form; shall contain a statement to the effect that the provisions of this Part with respect to the survey of the steam-ship and the transmission of the declaration of survey in respect thereof have been complied with; and shall set forth—

(a) the particulars concerning the steam-ship which clauses (c), (d) and (e) of section 134 require the declaration by the surveyor to contain; and

(b) any other prescribed particulars.

(3) When a certificate is ready for delivery under this section, the Local Government shall cause notice thereof to be given by post or otherwise to the owner or master of the steam-ship to which the certificate relates.

(4) The Local Government may delegate to any person—

(a) the function, assigned to the Local Government by sub-section (1), of granting a certificate of survey under that sub-section;

(b) the function, assigned to the Local Government by sub-section (3), of causing notice to be given of a certificate of survey being ready for delivery :

Provided, with respect to clause (a) of this sub-section, that no delegation of the function mentioned in that clause shall be construed to authorise the grant of a certificate of survey by the surveyor who gave the declaration of survey.

Power for
Local Go-
vernment to
order a se-
cond survey.

137. (1) If the surveyor or surveyors making a survey under this Act refuses or refuse to give a declaration of survey under section 134 with regard to any steam-ship, or gives or give a declaration with which the owner or master of the steam-ship surveyed is dissatisfied, the Local Government may, on the application of the owner or master, and the payment by him of such fee, not exceeding twice the amount of

of the fee for the previous survey, as the Local Government may require, direct two other surveyors appointed under this Part to survey the steam-ship.

(2) The surveyors so directed shall forthwith survey the steam-ship, and may, after the survey, either refuse to give a declaration or give such declaration as under the circumstances seems to them proper, and their decision shall be final.

138. A certificate of survey granted under this Part shall not be in force—

Duration of certificates of survey.

- (a) after the expiration of one year from the date thereof; or
- (b) after the expiration of the period, if less than one year, for which the hull, boilers, engines or any of the equipments have been stated in the certificate to be sufficient; or
- (c) after notice has been given, by the Local Government, to the owner or master of the steam-ship to which the certificate relates that the Local Government has cancelled or suspended it.

139. Any certificate of survey granted under this Part may be cancelled or suspended by a Local Government if it has reason to believe—

Cancellation or suspension of certificate of survey by Local Government.

- (a) that the declaration by the surveyor of the sufficiency and good condition of the hull, boilers, engines or any of the equipments of the steam-ship has been fraudulently or erroneously made; or
- (b) that the certificate has otherwise been issued upon false or erroneous information; or
- (c) that, since the making of the declaration, the hull, boilers, engines or any of the equipments of the steam-ship have sustained any injury, or have otherwise become insufficient.

140. (1) The Local Government may require any certificate of survey granted under this Part which has expired, or has been cancelled or suspended, to be delivered up to such person as it directs.

Power to require delivery of expired or cancelled certificate of survey.

(2) If

(2) If the owner or master of a steam-ship, without reasonable cause, neglects or refuses to deliver up a certificate when required to do so under this section, he shall be liable to a fine which may extend to one hundred rupees

Report of
cancellation
or suspension
of certain
certificates.

141. If the Local Government which cancels or suspends a certificate of survey granted under this Part is not the Local Government which or whose delegate granted the certificate, the Local Government cancelling or suspending the certificate shall report the fact of cancellation or suspension, together with the reasons thereof, to the Local Government which or whose delegate granted the certificate.

Certificate
of survey to
be affixed in
conspicuous
part of
steam ship.

142. (7) The owner or master of every steam-ship for which a certificate of survey has been granted under this Part shall forthwith, on the receipt of the certificate, cause one of the duplicates thereof to be affixed, and kept affixed so long as the certificate remains in force and the steam-ship is in use, on some conspicuous part of the steam-ship where it may be easily read by all persons on board thereof.

(2) If the certificate is not so kept affixed, the owner and master of the steam-ship shall each be liable to a fine which may extend to one hundred rupees

Penalty for
carrying pas-
sengers in
contraven-
tion of the
Act.

143. If a steam-ship on any voyage carries or attempts to carry passengers in contravention of section 125, or has on board or in any part thereof a number of passengers which is greater than the number set forth in the certificate of survey as the number of passengers which the steam-ship or the part thereof is fit to carry on that voyage, the owner and the master shall each be punishable with a fine which may extend to one thousand rupees, and also with an additional fine not exceeding twenty rupees for every passenger above the number so set forth, or, if the fare of any passenger on board exceeds twenty rupees, not exceeding double the amount of the fares of all the passengers above the number so set forth, reckoned at the highest rate of fare payable by any passenger on board; and if the master or any other officer of any steam-ship which carries or attempts

attempts to carry passengers in contravention of section 125 is a licensed pilot, he shall be liable to have his licence as a pilot suspended or cancelled for any period by the Local Government.

144. (1) When a steam-ship requires to be furnished with a certificate of survey under this Part and the Local Government is satisfied, by the production of a certificate of survey attested by a British Consular Officer at the port where the survey was made, that the ship has been officially surveyed at a foreign port, and that the requirements of this Act are proved by that survey to have been substantially complied with, the Local Government may, if it thinks fit, dispense with any further survey of the ship in respect of the requirements so complied with, and give a certificate which shall have the same effect as a certificate given after survey under this Part :

Steam-ships with foreign certificates of survey or certificates of partial survey.

Provided that this sub-section shall not apply in the case of a foreign steam-ship to an official survey at any foreign port with respect to which His Majesty has by Order in Council directed that section 363 of the Merchant Shipping Act, 1894, shall not apply.

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Vict., c. 60.

(2) When the Local Government has, by notification in the local official Gazette, declared that it is satisfied that an official survey at any foreign port specified in the declaration is such as to prove that the requirements of this Act have been substantially complied with, any person appointed by the Local Government in this behalf may exercise the power to dispense with a survey and to give a certificate conferred on the Local Government by sub-section (1) in the case of any steam-ship furnished with a valid certificate of survey granted at such foreign port and duly attested by the British Consular Officer at that port.

(3) The procedure prescribed in sub-section (1) shall be applicable in the case of steam-ships furnished with valid certificates of partial survey, including docking certificates, granted by the Board of Trade or any British Colonial Government,

as

as if they were steam-ships furnished with like certificates of survey granted at foreign ports, subject to the modification that the powers of the Local Government under the said subsection may be exercised by any person appointed by the Local Government in this behalf.

Power for
Local Gov-
ernment to
make rules
as to sur-
veys.

145. (1) The Local Government may, subject to the condition of previous publication and the sanction of the Governor General in Council, make rules to regulate the making of surveys under this Part.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) declare the times and places at which, and the manner in which, surveys are to be made;

(b) regulate the duties of the surveyor making a survey and, where two surveyors are employed, assign the respective duties of each of the surveyors employed;

(c) declare the form in which the declarations of surveyors and certificates of survey under this Part are to be framed, and the nature of the particulars which are to be stated therein, respectively; and

(d) fix the rates according to which the fees payable in respect of surveys are to be calculated in the case of all or any of the ports of survey within the territories under its administration.

Provisions in case of Wreck of Ship carrying Steerage Passengers.

Application
of certain
sections of
Merchant
Shipping Act,
1894, in case
of wreck
of ship carry-
ing steerage
passengers on
certain voy-
ages.

146. (1) The provisions contained in Part I of Schedule III (being sections 332, 333, 334 and 335 of the Merchant Shipping Act, 1894) are declared applicable to ships carrying steerage passengers upon the following voyages, namely:—

(a) voyages from the ports of Calcutta, Madras and Bombay to the British Colonies

57 & 58
Vict., c. 6

Colonies of Mauritius, Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, Natal, St. Kitts, Nevis and Fiji;

- (b) voyages from the ports of Calcutta, Madras and Bombay to the French Colonies of Réunion, Martinique, Guadeloupe and its dependencies, and Guiana;
- (c) voyages from the ports of Calcutta, Madras and Bombay to the Netherlands Colony of Dutch Guiana;
- (d) voyages from the ports of Calcutta, Madras and Bombay to the Danish Colony of St. Croix;
- (e) voyages under Part IV of this Act (which relates to native passenger ships) from Calcutta, Madras, Bombay, Karachi, Rangoon and other ports in British India to the Straits Settlements, to the Protected Native States adjoining the Straits Settlements, to Australia, and to ports in the Red Sea, Gulf of Aden or Persian Gulf and on the East Coast of Africa.

(2) This section shall not come into operation until His Majesty's pleasure thereon has been publicly signified by notification in the Gazette of India.

(3) On such signification of such pleasure, XII of 1885. the Indian Sea Passengers Act, 1885, shall be repealed.

PART IV.

NATIVE PASSENGER SHIPS AND PILGRIM SHIPS.

147. (1) This Part applies—

Application
of Part.

- (a) to all subjects of His Majesty within the dominions of Princes and States in India;

(b) to

(b) to all Indian subjects of His Majesty without and beyond British India.

(2) But the provisions of this Part relating to native passenger ships do not apply—

(a) to any steam-ship not carrying as passengers more than sixty natives of Asia or Africa;

(b) to any ship not intended to carry natives of Asia or Africa as passengers to or from any port in British India; or

(c) to any ships to which the provisions of the Inland Steam Vessels Act, 1917, are 1 of 1917 applicable.

(3) Notwithstanding anything in sub-sections (1) and (2), the Local Government may, with the previous sanction of the Governor General in Council, declare all or any of the provisions of this Part relating to native passenger ships to apply to sailing-ships, or any class of sailing-ships, carrying as passengers more than fifteen natives of Asia or Africa, and to steam-ships, or any class of steam-ships, carrying as passengers more than thirty such persons.

Power to
exempt ship
from provi-
sions of Part
IV

148. (1) The Local Government, with the previous sanction of the Governor General in Council, may, subject to such condition as it thinks fit, exempt any ship or class of ships from any provision of this Part relating to native passenger ships.

(2) In imposing a condition under this section the Local Government may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

Definitions.

149. In this Part, unless there is anything repugnant in the subject or context,—

(1) “ native passenger ” means a passenger by a ship who is a native of Asia or Africa of the age of twelve

twelve years or upwards and is not on the articles of the ship as one of the crew; but it does not include either a passenger in attendance on a person who is not a native of Asia or Africa or a child under one year of age; and, in the computation of passengers for any of the purposes of this Part, two persons of the age of one year or upwards and under the age of twelve years shall be reckoned as one passenger;

(2) “ native passenger ship ” means, save as otherwise provided in this Part, a ship carrying more than thirty native passengers;

(3) “ pilgrim ” means a Muhammadan passenger going to, or returning from, the Hedjaz; but it does not include a child under one year of age, and, in the computation of pilgrims for all or any of the purposes of this Act, the Governor General in Council may, by notification in the Gazette of India, direct that two persons of the age of one year or upwards and under the age of twelve years shall be reckoned as one pilgrim;

Explanation I.—A Muhammadan passenger who has embarked with the intention of going to the Hedjaz, but is returning without having actually landed there, shall be deemed to be a pilgrim for the purposes of this Act;

Explanation II.—Every passenger, whether a pilgrim or not, on board a pilgrim ship shall be deemed to be a pilgrim for the purposes of this Part;

(4) “ pilgrim ship ” means a ship conveying or about to convey pilgrims from or to any port in British India to or from any port in the Red Sea other than Suez :

Provided that no ship carrying passengers other than pilgrims of the lowest class and having on board pilgrims of the lowest class in a less proportion than one pilgrim for every one hundred tons of the gross tonnage of the ship shall be deemed to be a pilgrim ship within the meaning of this Act.

Explanation.

Explanation.—“ A pilgrim of the lowest class ” is a pilgrim for whom no separate accommodation in any cabin, state-room or saloon is reserved;

(5) “ voyage ” means the whole distance between the ship’s port or place of departure and her final port or place of arrival;

(6) “ Chief Customs-officer ” means the chief executive officer of sea-customs in any port or place to which this Part applies.

General Provisions as to Native Passenger and Pilgrim Ships.

Places appointed by the Government.

150. (1) A native passenger ship shall not, nor shall a pilgrim ship, depart or proceed from, or discharge native passengers or pilgrims, as the case may be, at any port or place within British India other than a port or place appointed in this behalf by the Local Government for native passenger ships or pilgrim ships, as the case may be.

(2) After a ship has departed or proceeded on a voyage from a port or place so appointed, a person shall not be received on board as a native passenger or pilgrim, as the case may be, except at some other port or place so appointed.

Notice to be given of day of sailing.

151. (1) The master, owner or agent of a native passenger or pilgrim ship so departing or proceeding shall give notice to an officer, appointed in this behalf by the Local Government, that the ship is to carry native passengers or pilgrims and of her destination and of the proposed time of sailing.

(2) The notice shall be given—

(a) in the case of a native passenger ship not less than twenty-four hours before that time;

(b) in the case of a pilgrim ship at the original port of departure if in British India, and in other cases at the first port at which she touches in British India, not less than three days, and at all other ports not less than twenty-four hours before that time.

152. After

152. After receiving the notice, the officer or a person authorised by him shall be at liberty at all times to enter on the ship and inspect her and her fittings and the provisions and stores on board.

Power to enter on and inspect ship.

153. (1) A ship intended to carry native passengers or pilgrims shall not commence a voyage from a port or place appointed under this Part, unless the master holds two certificates to the effect mentioned in the two next following sections.

Ship not to sail without two certificates.

(2) The officer whose duty it is to grant a port-clearance for the ship shall not grant it unless the master holds those certificates.

154. The first of the certificates (hereinafter called "certificate A") shall state that the ship is sea-worthy and properly equipped, fitted and ventilated, and—

Contents of certificate A.

- (a) in the case of a native passenger ship, the number of passengers which she is capable of carrying;
- (b) in the case of a pilgrim ship, the number of pilgrims of each class which she is capable of carrying.

155. The second of the certificates (hereinafter called "certificate B") shall state—

Contents of certificate B.

- (a) the voyage which the ship is to make, and the intermediate ports (if any) at which she is to touch;
- (b) that she has the proper complement of officers and seamen;
- (c) that food, fuel and pure water over and above what is necessary for the crew, and the other things (if any) prescribed for native passengers or pilgrim ships, as the case may be, have been placed on board, of the quality prescribed properly packed, and sufficient to supply the native passengers or pilgrims on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the prescribed scale;

(d) that

- (d) that the master holds certificate A;
- (e) in the case of a native passenger ship if the ship is to make a short voyage, as hereinafter defined, in a season of foul weather, and to carry upperdeck passengers, that she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather;
- (f) in the case of a native passenger ship, if she is to carry passengers to any port in the Red Sea, that she is propelled principally by steam, and, if she is to carry more than one hundred passengers to any such port, that she has on board a medical officer licensed in the prescribed manner;
- (g) in the case of a pilgrim ship, that she is propelled principally by steam and that she is of the tonnage and steam power (if any) prescribed;
- (h) in the case of a pilgrim ship, if she is to carry more than one hundred pilgrims, that she has on board the medical officer or officers required by this Part and the prescribed attendants; and
- (i) such other particulars, if any, as may be prescribed for native passenger or pilgrim ships, as the case may be.

Supply by
passengers
of their own
food.

156. If an officer appointed in this behalf by the Local Government is satisfied that a native passenger or pilgrim has brought on board a native passenger or pilgrim ship for his own use food of the quality and in the quantity prescribed, the requirements of this Part, respecting the supply of food for passengers or pilgrims, shall not apply so far as regards the supply of food for that passenger or pilgrim.

Grant of cer-
tificates.

157. The person by whom certificate A and certificate B are to be granted shall be the officer appointed

appointed under section 151 who is hereinafter referred to as the certifying officer.

158. Where the master of a ship produces to the certifying officer one of the certificates of survey referred to in sections 136 and 144 in respect of the ship in force and applicable to the voyage on which the ship is to proceed or the service on which she is about to be employed, the certifying officer may, if the particulars required by section 154 are certified thereby, take the certificate as evidence of those particulars, and it shall then be deemed to be a certificate A for the purposes of this Part.

Substitute
for certi-
ficate A.

159. (1) After receiving the notice required by section 151 the certifying officer may, if he thinks fit, cause the ship to be surveyed at the expense of the master or owner by competent surveyors, who shall report to him whether the ship is, in their opinion, seaworthy and properly equipped, fitted and ventilated for the service on which she is to be employed:

Survey of
ship.

Provided that he shall not cause a ship holding one of the certificates of survey referred to in Part III to be surveyed unless, by reason of the ship having met with damage or having undergone alterations, or on other reasonable ground, he considers it likely that she may be found unseaworthy or not properly equipped, fitted or ventilated for the service on which she is to be employed.

(2) If the officer causes a survey to be made of a ship holding any such certificate, and the surveyors report that the ship is seaworthy and properly equipped, fitted and ventilated for the voyage, and that there was no reasonable ground why the officer should have thought it likely that she would be found unseaworthy, or not properly equipped, fitted or ventilated for the service on which she is to be employed, the expense of the survey shall be paid by the Local Government.

160. (1) The certifying officer shall not grant a certificate unless he is satisfied that the ship has not on board any cargo likely from its quality, quantity

Discretion
as to grant
of certificate.

or mode of stowage to prejudice the health or safety of the native passengers or pilgrims.

(2) Save as aforesaid, and subject to the provisions of sub-section (3), it shall be in the discretion of the certifying officer to grant or withhold the certificate.

(3) In the exercise of that discretion that officer shall be subject to the control of the Local Government, and of any intermediate authority which that Government appoints in this behalf.

Copy of
certificates to
be exhibited.

161. The master or owner shall post up in a conspicuous part of the ship, so as to be visible to persons on board thereof, a copy of each of the certificates granted under this Part in respect of the ship, and shall keep those copies so posted up throughout the voyage.

Penalty for
ship unlaw-
fully depart-
ing or receiv-
ing passen-
gers on board.

162. (1) If a native passenger or pilgrim ship departs or proceeds on a voyage from, or discharges native passengers or pilgrims at, any port or place within British India in contravention of the provisions of this Part, or if a person is received as a native passenger or pilgrim on board any such ship in contravention of the provisions of this Part, the master or owner shall, for every native passenger or pilgrim carried in the ship, or for every native passenger or pilgrim so discharged or received on board, be liable to a fine which may extend to one hundred rupees or to imprisonment for a term which may extend to one month, or to both :

Provided that the aggregate term of imprisonment awarded under this section shall not exceed one year.

(2) The ship, if found within two years in any port or place within British India, may be seized and detained by a Chief Customs-officer until the penalties incurred under this Part by her master or owner have been adjudicated, and the payment of the fines imposed on him under this Part with all costs, has been enforced, under the provisions of this Part.

163. If

163. If a person impedes or refuses to allow any entry or inspection authorised by or under this Part, he shall be liable to a fine which may extend to five hundred rupees for each offence, or to imprisonment for a term which may extend to three months, or to both.

Penalty for opposing entry on or inspection of ships.

164. If the master or owner of a native passenger or pilgrim ship without reasonable excuse, the burden of proving which shall lie upon him, fails to comply with the requirements of this Part with respect to the posting of copies of certificates, he shall be liable to a fine which may extend to two hundred rupees, or to imprisonment for a term which may extend to one month, or to both.

Penalty for not exhibiting copy of certificates.

165. If the master of a native passenger or pilgrim ship after having obtained any of the certificates mentioned in this Part fraudulently does or suffers to be done anything whereby the certificate becomes inapplicable to the altered state of the ship, her native passengers or pilgrims, as the case may be, or other matters to which the certificate relates, he shall be liable to a fine which may extend to two thousand rupees, or to imprisonment for a term which may extend to six months, or to both.

Penalty for fraudulent alteration in ship after certificate obtained.

166. If the master of a native passenger or pilgrim ship without reasonable excuse, the burden of proving which shall lie upon him, omits to supply to any passenger or pilgrim the prescribed allowance of food, fuel and water, as required by the provisions of this Part, he shall be liable to a fine which may extend to twenty rupees for every native passenger or pilgrim who has sustained detriment by the omission.

Penalty for failing to supply native passengers or pilgrims with prescribed provisions.

167. (1) If a native passenger or pilgrim ship has on board a number of native passengers or pilgrims which is greater than the number allowed for the ship by or under this Part, the master and owner shall, for every such passenger or pilgrim over and above that number, be each liable to a fine which may extend

Penalty for having excessive number of passengers on board.

extend to twenty rupees, and the master shall further be liable to imprisonment for a term which may extend to one week in respect of each such passenger or pilgrim :

Provided that the aggregate term of imprisonment awarded under this section shall not exceed six months.

(2) Any officer authorised in this behalf by the Local Government may cause all native passengers or pilgrims over and above the number allowed by or under this Part to disembark, and may forward them to any port at which they may have contracted to land, and recover the cost of so forwarding them from the master or owner of the ship as if the cost were a fine imposed under this Part, and a certificate under the hand of that officer shall be conclusive proof of the amount of the cost aforesaid.

Penalty for landing native passenger or pilgrim at a place other than that at which he has contracted to land.

168. If the master of a native passenger or pilgrim ship lands any native passenger or pilgrim at any port or place other than the port or place at which the native passenger or pilgrim may have contracted to land, unless with his previous consent, or unless the landing is made necessary by perils of the sea or other unavoidable accident, the master shall, for every such offence be liable to a fine which may extend to two hundred rupees, or to imprisonment for a term which may extend to one month, or to both.

Penalty for making voyage in contravention of contract.

169. If a native passenger or pilgrim ship, otherwise than by reason of perils of the sea or other unavoidable accident, touches at any port or place in contravention of any express or implied contract or engagement with the native passengers or pilgrims with respect to the voyage which the ship was to make and the time which that voyage was to occupy, whether the contract or engagement was made by public advertisement or otherwise, the master and owner shall each be liable to a fine which may extend to five hundred rupees, or to imprisonment for a term which may extend to three months, or to both.

170. (1) The

170. (1) The Chief Customs-officer, or other officer, if any, appointed by the Local Government in this behalf, at any port or place within British India at which a native passenger or pilgrim ship touches or arrives, shall, with advertence to the provisions of this Part, send any particulars which he may deem important respecting the native passenger or pilgrim ship, and the native passengers or pilgrims carried therein, to the officer at the port or place from which the ship commenced her voyage, and to the officer at any other port or place within British India where the native passengers or pilgrims or any of them embarked or are to be discharged

Information to be sent to ports of embarkation and discharge.

(2) The Chief Customs-officer, or other officer, if any, appointed by the Local Government in this behalf, at any port or place in British India at which a ship to which this Part applies touches or arrives, may enter on the ship and inspect her in order to ascertain whether the provisions of this Act as to the number of native passengers or pilgrims and other matters have been complied with

171. In any proceeding for the adjudication of any penalty incurred under this Part any document purporting to be a report of such particulars as are referred to in sub-section (1) of the last foregoing section, or a copy of the proceedings of any Court of Justice duly authenticated, and also any like document purporting to be made and signed by any person lawfully exercising consular authority on behalf of His Majesty in any foreign port, shall be received in evidence, if it appears to have been officially transmitted to any officer at or near the place where the proceeding under this Part is held.

Report of Consul.

172. The penalties to which masters and owners of native passenger and pilgrim ships are made liable by this Part shall be enforced only on information laid at the instance of a certifying officer, or at any port or place where there is no such officer, at the instance of the Chief Customs-officer.

Authority to institute proceedings for penalties.

173. The Local Government shall appoint such persons as it thinks fit to exercise and perform the powers and duties which are conferred and imposed by

Appointment of officers.

by this Part or may be conferred and imposed thereunder.

Special Provisions relating to Native Passenger Ships.

Definitions.

174. (1) "Long voyage" means, subject to the provisions of this Part relating to native passenger ships, any voyage during which the ship performing it will in ordinary circumstances be one hundred and twenty hours or upwards continuously out of port.

(2) "Short voyage" means, subject to the provisions of this Part relating to native passenger ships, any voyage during which the ship performing it will not in ordinary circumstances be one hundred and twenty hours continuously out of port.

Power to declare what shall be deemed "seasons of fair weather", "seasons of foul weather" and "long voyages" and "short voyages."

175. The Governor General in Council may declare, by notification in the Gazette of India, what shall be deemed to be, for the purposes of this Part relating to native passenger ships, "seasons of fair weather" and "seasons of foul weather," and, for sailing-ships and steam-ships, respectively, a "long voyage" and a "short voyage."

Space to be available for passengers.

176. (1) For seasons of fair weather, a native passenger ship performing a short voyage shall, subject to the provisions of this Part, contain in the between-decks at least six superficial feet and thirty-six cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and six superficial feet available for each upper-deck passenger.

(2) For seasons of foul weather, a native passenger ship propelled by sails and performing a short voyage shall, subject as aforesaid, contain in the between-decks at least twelve superficial feet and seventy-two cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and twelve superficial feet available for each upper-deck passenger.

(3) For

(3) For seasons of foul weather, a native passenger ship propelled by steam, or partly by steam and partly by sails, and performing a short voyage shall, subject as aforesaid, contain in the between-decks at least nine superficial feet and fifty-four cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and nine superficial feet available for each upper-deck passenger.

(4) In seasons of foul weather a native passenger ship shall not carry upper-deck passengers unless she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather.

177. If a native passenger ship performing a short voyage takes additional native passengers on board at an intermediate port or place, the master shall obtain from the certifying officer at that port or place a supplementary certificate stating—

Ship taking additional passengers at intermediate place.

- (a) the number of native passengers so taken on board, and
- (b) that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for the ship, have been placed on board, of the quality prescribed, properly packed and sufficient to supply the native passengers on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed :

Provided that, if the certificate B held by the master of the ship states that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for her, have been placed on board, of the quality prescribed by the rules, properly packed and sufficient to supply the full number of native passengers which she is capable of carrying, the master shall not be bound to obtain any such supplementary certificate.

178. When

Deaths on
voyage.

178. When the ship after performing a short voyage reaches her final port or place of arrival, the master shall notify to such officer as the Local Government appoints in this behalf the date and supposed cause of death of every passenger dying on the voyage.

Space to be
available for
passengers.

179. (1) A native passenger ship propelled by sails and performing a long voyage shall, subject to the provisions of this Act, contain in the between-decks at least twelve superficial feet and seventy-two cubic feet of space available for every passenger.

(2) A native passenger ship propelled by steam, or partly by steam and partly by sails, and performing a long voyage, shall, subject as aforesaid, contain in the between-decks at least nine superficial feet and fifty-four cubic feet of space available for every passenger.

Statements
concerning
passengers.

180. The master of a native passenger ship departing or proceeding on a long voyage from any port or place in British India shall sign two statements, specifying the number and the respective sexes of all the native passengers, and the number of the crew, and shall deliver them to the certifying officer, who shall thereupon, after having first satisfied himself that the numbers are correct, countersign and return to the master one of the statements.

Deaths on
voyage.

181. The master of any such ship shall note in writing on the statement returned to him, and on any additional statement to be made under the next following section, the date and supposed cause of death of any native passenger who may die on the voyage, and shall, when the ship arrives at her port or place of destination or at any port or place where it may be intended to land native passengers, and before any passenger leaves the ship, produce the statement with any additions made thereto to a person lawfully exercising consular authority on behalf of His Majesty at the port or place, or to the Chief Customs-officer thereat or the certifying officer, if any, appointed there.

182. (1) In

182. (1) In either of the following cases, namely,—

Ship taking additional passengers at intermediate place.

- (a) if after the ship has departed or proceeded on a long voyage any additional native passengers are taken on board at a port or place within British India appointed under this Part for the embarkation of native passengers, or
- (b) if the ship upon her voyage touches or arrives at any such port or place, having previously received on board additional native passengers at any place beyond British India,

the master shall obtain a fresh certificate to the effect of certificate B from the certifying officer at that port or place, and shall make additional statements specifying the number and the respective sexes of all the additional passengers.

(2) All the foregoing provisions of this Part with respect to certificate B and statements concerning native passengers shall be applicable to any certificate granted or statement made under this section.

183. (1) A ship carrying native passengers from or to any port in British India to or from any port in the Red Sea shall be propelled principally by steam.

Certain ships to be propelled by steam.

(2) If this section is not complied with, the master and owner shall each be liable to a fine which may extend to five hundred rupees, or to imprisonment which may extend to three months, or to both.

184. (1) A ship carrying more than one hundred native passengers from or to any port in British India to or from any port in the Red Sea shall have on board a medical officer licensed in the prescribed manner.

Certain ships to carry medical officer.

(2) If this section is not complied with, the master shall be liable to a fine which may extend to five hundred rupees, or to imprisonment for a term which may extend to three months, or to both.

185. (1) A ship carrying native passengers from or to any port in British India other than Aden to or from any port in the Red Sea shall touch at Aden, and

Ships carrying passengers to or

from port in
Red Sea to
touch at
Aden.

and shall not leave that port without having obtained from the proper authority a clean bill of health.

(2) If the master without reasonable excuse, the burden of proving which shall lie upon him, fails to touch at Aden or leaves that port without having obtained a bill of health under this section, he shall, for every such offence, be liable to a fine which may extend to two thousand rupees, or to imprisonment for a term which may extend to six months, or to both.

(3) If, in the case of any such ship as is referred to in this section, the master or the medical officer, if any, of the ship without reasonable excuse, the burden of proving which shall lie upon him, breaks, or omits or neglects to obey, any rule under this Part applicable to the ship, he shall be liable to a fine which may extend to five hundred rupees, or to imprisonment for a term which may extend to three months, or to both.

Bill of health
at Aden.

186. The authority at Aden empowered to grant the bill of health shall refuse to grant it if the ship has on board a greater number of native passengers than the number allowed for the ship by or under this Part, and may refuse to grant it if the requirements of any rule under this Part are not complied with on board the ship.

Bond where
ship clears
for port in
Red Sea.

187. In the case of a ship carrying native passengers from any port in British India other than Aden to any port in the Red Sea, the officer whose duty it is to grant a port clearance for the ship shall not grant the clearance unless and until the master, owner or agent of the ship and two sureties resident in British India have executed in favour of the Secretary of State for India in Council a joint and several bond, for the sum of five thousand rupees, conditioned—

(a) that the ship shall touch at Aden on the outward voyage and there obtain a clean bill of health, and shall do the same on the homeward voyage if the ship continues to carry more than sixty native passengers, and

(b) that

- (b) that the master and medical officer (if any) of the ship shall on the outward voyage, and also on the homeward voyage if the ship continues to carry more than sixty native passengers, comply with the provisions of this Part and of such rules relating to ships carrying native passengers between ports in British India and ports in the Red Sea as the Governor General in Council may make under this Part.

188. (1) The Local Government may direct that no native passenger shall be received on board any ship, or any ship of a specified class, carrying native passengers from any port in British India to any port in the Red Sea, unless and until the passenger has been inspected, at such time and place, and in such manner, as the Local Government may fix in this behalf, by a medical officer to be appointed by that Government for the purpose.

Power for Local Government to direct medical inspection of passengers.

(2) If, in the opinion of the officer making an inspection under this section, a native passenger is suffering from any dangerously infectious or contagious disease, the passenger shall not be permitted to embark.

(3) If the master of any such ship knowingly receives on board the ship any person in contravention of this section, he shall be liable to a fine which may extend to five hundred rupees for each person so received, or to imprisonment which may extend to three months, or to both.

189. If a master fails to comply with any of the requirements of section 180 or section 181 as to the statements concerning native passengers, or wilfully makes any false entry or note in or on any such statement, or without reasonable excuse, the burden of proving which shall lie upon him, fails to obtain any such supplementary certificate as is mentioned in section 177 or to report deaths as required by section 178 or to obtain any such fresh certificate, or to make any such statement of the number of additional native passengers, as is mentioned in section 182, he shall be

Penalty for not complying with requirements as to statements concerning passengers and certain other matters.

be liable to a fine which may extend to five hundred rupees for every such offence, or to imprisonment for a term which may extend to three months, or to both.

Penalty for bringing passengers from foreign port in excess of authorised number.

190. If a ship carrying native passengers from any port or place beyond British India to any port or place in British India has on board a number of passengers greater either than the number allowed for the ship by or under this Part or than the number allowed by the licence or certificate, if any, granted in respect of the ship at her port or place of departure, the master and owner shall, for every native passenger in excess of that number, be each liable to a fine which may extend to twenty rupees.

Power for Governor General in Council and Local Government to make rules.

191. (1) The Governor General in Council may make rules consistent with this Part to regulate, in the case of any native passenger ship or class of such ships, all or any of the following matters, namely :—

- (a) the scale on which food, fuel and water are to be supplied to the passengers or to any class or classes of passengers, and the quality of the food, fuel and water;
- (b) the medical stores and other appliances and fittings to be provided on board for maintaining health, cleanliness and decency;
- (c) the licensing and appointment of medical officers in cases where they are required by this Part to be carried;
- (d) the boats, anchors and cables to be provided on board;
- (e) the instruments for purposes of navigation to be supplied;
- (f) the apparatus for the purpose of extinguishing fires on board and the precautions to be taken to prevent such fires;
- (g) the provision of appliances for saving life and of means for making signals of distress, and the supply of lights inextinguishable in water and fitted for attachment to lifebuoys;
- (h) the functions of the master, medical officer (if any) and other officers of the ship during the voyage;

(i) the

(i) the access of between-decks passengers to the upper deck; and

(j) generally, to carry out the purposes of this Part.

(2) The Local Government may make rules consistent with this Part to regulate, in the case of any native passenger ship or class of such ships.—

(a) the local limits within which, and the time and mode at and in which, passengers are to be embarked or discharged at any port or place appointed under this Part in that behalf; and

(b) the time within which the ship or any ship of the class is to depart or proceed on her voyage after commencing to take passengers on board.

(3) In making a rule under this section, the authority making it may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

(4) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

192. The Governor General in Council may by order prescribe, in the case of any native passenger ship or class of such ships and for all or any voyages, the number of superficial or of cubic feet of space to be available for native passengers; and the order shall be alternative to, or override, as the Governor General in Council may direct, the requirements on that subject of this Part so far as they apply to that ship or class of ships.

Power to prescribe space to be available for passengers.

Special Provisions regarding Pilgrim Ships.

193. (1) The Governor General in Council may by order determine the number of superficial and cubic feet of space (not being less than the space for the

Space to be provided for pilgrims.

the time being required for passengers under this Act) to be available in the between-decks for pilgrims of each class, respectively, on board pilgrim ships.

(2) Every pilgrim ship shall have reserved for the use of the pilgrims on board gratuitously by day and by night so much of the upper deck as is not required for the airing space of the crew or for permanent structures :

Provided that the upper deck space available for pilgrims shall in no case be less than six superficial feet for each pilgrim of the age of twelve years or upwards on board.

(3) Subject as aforesaid and to any rules which may be made under this Act, such space may be allotted among the different classes of pilgrims in such proportion as may be thought fit :

Provided that not less space shall be allotted to any one class than will provide six superficial feet of space available for each pilgrim of the age of twelve years or upwards of that class on board.

Disposal of
pilgrims' bag-
gage.

194. The baggage of all pilgrims shall be disposed of on board in such manner as may be prescribed.

Hospital ac-
commodation.

195. There shall be a regularly appointed hospital on board every pilgrim ship offering such conditions of security, health and space, and capable of accommodating such number, not exceeding five per cent. of the pilgrims embarked, as may be prescribed.

Statement
concerning
pilgrims to be
delivered be-
fore ship de-
parts.

196. The master of every pilgrim ship departing or proceeding from any port or place in British India shall sign a statement in duplicate in the prescribed form specifying the total number and the number of each sex of all the pilgrims embarked and the number of the crew, and such other particulars as may be prescribed, and shall deliver both copies to the certifying officer who shall thereupon after having first satisfied himself that the entries are correct, countersign and return to the master one of the copies.

Deaths on
voyage.

197. The master of every pilgrim ship shall note in writing on the copy of the statement returned to him under the last foregoing section, and on any additional

additional statement to be made under the next following section, the date and supposed cause of death of any pilgrim who may die on the voyage, and shall, when the pilgrim ship arrives at her port or place of destination, or at any port or place at which it may be intended to land pilgrims, and before any pilgrims disembark, produce the statement, with any additions thereto made, to a person lawfully exercising consular authority on behalf of His Majesty at the port or place or to the Chief Customs officer thereat or the certifying officer (if any) appointed there

198. (7) In either of the following cases, namely :—

- (a) if, after a pilgrim ship has departed or proceeded on her voyage, any additional pilgrims are taken on board at a port or place within British India appointed under this Act for the embarkation of pilgrims, or
- (b) if a pilgrim ship upon her voyage touches or arrives at any such port or place, having previously received on board additional pilgrims at any place beyond British India,

Pilgrim ship taking additional pilgrims at intermediate place.

the master shall obtain a fresh certificate to the effect of certificate B from the certifying officer at that port or place, and shall furnish an additional statement, in duplicate in the prescribed form, respecting such additional pilgrims.

(2) All the foregoing provisions of this Part with respect to certificate B, and the statement concerning pilgrims to be signed and delivered by the masters of pilgrim ships, shall be applicable to any certificate granted or statement furnished under this section.

199. The master of every pilgrim ship arriving at any port or place in British India at which it may be intended to discharge pilgrims shall, before any pilgrims disembark, deliver a statement signed by him, specifying the total number and the number of each sex of all the pilgrims on board and the number

Statement concerning pilgrims to be delivered before pilgrims disembark in British India.

of the crew, and such other particulars as may be prescribed, to the certifying officer appointed thereat.

Pilgrim ships to be propelled principally by steam and to be of certain tonnage and steam-power.

200. (1) Every pilgrim ship shall be propelled principally by steam, and shall be of the tonnage and steam-power (if any) prescribed.

(2) If this section is not complied with, the master and owner shall each be liable to a fine which may extend to five hundred rupees, or to imprisonment which may extend to three months, or to both.

Certain pilgrim ships to carry medical officers and attendants.

201. (1) Every pilgrim ship carrying more than one hundred pilgrims shall have on board a medical officer licensed as prescribed and, if the number carried exceed one thousand, a second medical officer similarly licensed, and also in all cases such attendants as may be prescribed.

(2) If this section is not complied with, the master shall be liable to a fine which may extend to five hundred rupees, or to imprisonment which may extend to three months, or to both.

Medical officers' diaries and reports

202. The medical officer or officers of every pilgrim ship shall keep such diaries, and shall submit such reports or other returns, as may be prescribed.

Pilgrim ships to touch at Aden on the outward voyage.

203. (1) Every pilgrim ship, proceeding from any port in British India other than Aden to any port in the Red Sea, shall touch at Aden, and shall not leave that port without having obtained from the proper authority a certificate stating whether any case of cholera has or has not occurred on board since the ship left the port of last departure.

(2) If the master of any such ship, without reasonable excuse, the burden of proving which shall lie upon him, fails to touch at Aden or leaves that port without having obtained the certificate required by this section, he shall for every such offence be liable to a fine which may extend to two thousand rupees, or to imprisonment for a term which may extend to six months, or to both.

When authority at Aden may refuse to let ship leave.

204. The authority at Aden empowered to grant the certificate required under section 203 may refuse to permit the ship to leave that port if the provisions of

of this Part or any rule thereunder are not complied with on board such ship.

205. In the case of every pilgrim ship proceeding from any port in British India to any port in the Red Sea, the officer whose duty it is to grant a port-clearance shall not grant the clearance unless or until the master, owner or agent and two sureties resident in British India have executed, in favour of the Secretary of State for India in Council, a joint and several bond, for the sum of five thousand rupees, conditioned—

Bond where pilgrim ship proceeds on outward voyage.

- (a) that the ship (if the voyage do not commence at Aden) shall touch at Aden on the outward voyage and there obtain the certificate required by section 203, and
- (b) that the master and medical officer or officers (if any) shall comply with the provisions of this Part and the rules thereunder.

206. (1) No pilgrim shall be received on board any pilgrim ship at any port or place in British India unless and until he has been medically inspected, at such time and place, and in such manner, as the Local Government may fix in this behalf nor until the certifying officer has given permission for the embarkation of pilgrims to commence.

Medical inspection and permission required before embarkation of pilgrims.

(2) If, in the opinion of the officer making an inspection under this section, any pilgrim is suffering from cholera or choleraic indisposition, or any dangerously infectious or contagious disease, or shows any signs of the same or any other suspicious symptoms, such pilgrim shall not be permitted to embark

(3) All articles which have been contaminated by persons suffering from cholera or choleraic indisposition, or any dangerously infectious or contagious disease, or are suspected of having been so contaminated shall, before being taken on board a pilgrim ship, be disinfected, under the supervision of a medical officer appointed by the Local Government for the purpose, in such manner as may be prescribed.

(4) If

(4) If the master of any such ship knowingly receives on board any pilgrim or contaminated article in contravention of this section, he shall be liable to a fine which may extend to five hundred rupees for each pilgrim, or fifty rupees for each article so received, or to imprisonment which may extend to three months, or to both.

Medical inspection after embarkation in certain cases.

207. (1) If in any case a pilgrim ship does not proceed on her voyage within forty-eight hours after all the pilgrims have been received on board, and there is reason to suspect that any person on board is suffering from cholera or choleraic indisposition or any dangerously infectious or contagious disease, a medical inspection of all persons on board may be held in such manner as the Local Government may direct.

(2) If on such inspection any person is found to be suffering from cholera or choleraic indisposition or any dangerously infectious or contagious disease, or shows any signs of the same or any other suspicious symptoms, he shall, together with all articles belonging to him, be at once removed from the ship.

(3) If the master of any such ship knowingly keeps on board any pilgrim or article ordered to be removed under this section, he shall be liable to a fine which may extend to five hundred rupees for each pilgrim, or to fifty rupees for each article, so kept on board or to imprisonment which may extend to three months, or to both.

Medical inspection of women.

208. So far as may be practicable, and subject to any rules which may be made under this Act, the medical inspection of female pilgrims shall be carried out by women.

Issue and production of tickets and refund of passage-money.

209. (1) Every pilgrim shall be entitled, on payment of his passage-money and fulfilment of the other prescribed conditions (if any), to receive a ticket in the prescribed form, and shall be bound to produce the same to such officers and on such occasions as may be prescribed, and otherwise to deal with the same in the prescribed manner.

(2) Every pilgrim prevented from embarking under section 206 or removed from the ship under section

section 207, or otherwise prevented from proceeding shall be entitled to the refund of any passage-money he may have paid, subject to any conditions or deductions which may be prescribed.

210. The master of every pilgrim ship shall be bound to pay the whole amount of the sanitary taxes imposed by lawful authority at the ports visited if and so far as such taxes are included in the cost of the tickets issued to the pilgrims.

Sanitary taxes payable by master of pilgrim ship.

211. If the master of a pilgrim ship fails to comply with any of the requirements of section 196, section 197 or section 199 as to the statements concerning pilgrims, or wilfully makes any false entry or note in or on any such statement, or fails to obtain any such fresh certificate or to make any such statement of the number of additional pilgrims as is mentioned in section 198, he shall be liable to a fine which may extend to five hundred rupees for every such offence, or to imprisonment for a term which may extend to three months, or to both.

Penalty on master for not complying with requirements as to statements concerning pilgrims and certain other matters.

212. If the master or the medical officer (if any) of a pilgrim ship, without reasonable excuse, the burden of proving which shall lie upon him, breaks or omits or neglects to obey, any rule under this Part, he shall be liable to a fine which may extend to five hundred rupees, or to imprisonment for a term which may extend to three months, or to both.

Penalty on master or medical officer of pilgrim ship disobeying rules under this Act.

213. (1) The Governor General in Council may make rules to regulate all or any of the following matters, namely :—

Power for Governor General in Council and Local Government to make rules.

- (a) the boats, anchors and cables to be provided on board pilgrim ships;
- (b) the instruments for purposes of navigation to be supplied;
- (c) the apparatus for the purpose of extinguishing fires on board and the precautions to be taken to prevent and deal with such fires;
- (d) the provision of appliances for saving life and of means for making signals of distress, and the supply of lights inextinguishable

inextinguishable in water and fitted for attachment to life-buoys;

- (e) the fittings and other appliances to be provided in the upper and between-decks for the comfort and convenience of pilgrims;
- (f) the scale on which, and the manner in which food, fuel and water are to be supplied to pilgrims, and the quality of such food, **fuel and water**;
- (g) the quality, quantity and storage of the cargo to be carried;
- (h) the allotment of the upper-deck space between the various classes of pilgrims;
- (i) the amount and distribution of the baggage of pilgrims;
- (j) the nature and the extent of the hospital accommodation and the medical stores, disinfectants, and other appliances and fittings to be provided on board for maintaining health, cleanliness and decency;
- (k) the form of the statements to be furnished by the master under sections 196 and 199, and the particulars to be entered therein;
- (l) the tonnage and steam-power to be required in the case of pilgrim ships, and the voyages to which, and seasons at which, such **rules** shall respectively apply;
- (m) the licensing and appointment of medical officers and other attendants in cases where they are required by this Part to be carried, and the diaries, reports and other returns to be kept or submitted by **such medical officers**;
- (n) the manner in which contaminated articles shall be disinfected before being taken on board a pilgrim ship;
- (o) the manner in which, and the persons by whom, the medical inspection of women shall be carried out;
- (p) the

- (p) the supply of tickets to intending pilgrims, the form of such tickets and the conditions and other matters to be specified thereon, and the amount of the sanitary taxes to be included in the cost thereof;
 - (q) the refund of passage-money to intending pilgrims who may not be permitted to embark or who having embarked may be removed from the ship under the powers conferred by this Part or who may otherwise for any unavoidable cause be prevented from proceeding in any pilgrim ship;
 - (r) the functions of the master, medical officer or officers (if any) and other officers during the voyage; and
 - (s) generally, to carry out the provisions of this Part relating to pilgrim ships.
- (z) The Local Government may make rules consistent with this Act to regulate—
- (a) the local limits within which, and the time and mode at and in which, pilgrims shall be embarked or discharged at any port or place appointed under this Part in that behalf; and
 - (b) the time within which a pilgrim ship shall depart or proceed on her voyage after commencing to take pilgrims on board.
- (3) In making a rule under this section, the authority making it may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.
- (4) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

PART V.

SAFETY.

Prevention of Collisions.

Appointment
of inspectors
of lights
and fog-sig-
nals.

214. (1) The Local Government may appoint persons to inspect, in any port, ships to which the regulations for preventing collisions at sea, issued under the provisions of the Merchant Shipping Acts, or any other similar law for the time being in force, may apply, for the purpose of seeing that such ships are properly provided with lights and with the means of making fog-signals, in pursuance of such regulations or law.

(2) Every person so appointed shall in the port for which he is appointed have, for the purposes of such inspection, the following powers—

- (a) he may go on board any ship and may inspect the same or any part thereof, or any of the machinery, equipments and cargo on board thereof, and may require the unloading or removal of any cargo, ballast or tackle, not unnecessarily detaining or delaying her from discharging, unloading or proceeding on any voyage;
- (b) he may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him, may examine such persons, and may, by a like summons, require returns in writing to any inquiries he thinks fit to make;
- (c) he may require and enforce the production of all books, papers or documents which he considers important; and
- (d) he may administer oaths, or may, in lieu of administering an oath, require every person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

215. If

215. If any person so appointed finds that any ship is not so provided, he shall give to the master or owner notice in writing pointing out the deficiency, and also what is, in his opinion, requisite in order to remedy the same.

Notice of deficiency to be given to master or owner by such inspectors.

216. Every notice so given shall be communicated in such manner as the Local Government may direct to the Customs-collector at any port from which such ship may seek to clear; and no Customs-collector to whom such communication is made shall grant such ship a port-clearance or allow her to proceed to sea without a certificate under the hand of some person appointed as aforesaid, to the effect that the said ship is properly provided with lights and with the means of making fog-signals in pursuance of the said regulations or law.

Ship not to be cleared by Customs-collector till inspector certifies it is properly provided with lights, etc.

Draught of Water and Load-line.

217. (1) Save as otherwise provided in this Act, every ship, British or foreign, while in any port in British India shall be permanently and conspicuously marked outside with lines of not less than twelve inches in length and one inch in breadth painted longitudinally on each side amidships, or as near thereto as practicable, and indicating the position of each deck which is above water.

Marking of deck-lines.

(2) The upper edge of each of these lines shall be level with the upper side of the deck-plank next the waterway at the place of marking.

(3) The lines shall be white or yellow on a dark ground, or black on a light ground.

(4) In this Part the expression "amidships" means the middle of the length of the loadwaterline as measured from the fore side of the stem to the aft side of the stern-post.

218. (1) Save as otherwise provided in this Act, the master of every ship, British or foreign, while in any port in British India shall, before the time hereinafter mentioned, mark outside upon each of her sides amidships, or as near thereto as practicable, in white or yellow on a dark ground or in black on a light

Marking of load-lines.

light ground, a circular disc twelve inches in diameter, with a horizontal line eighteen inches in length drawn through its centre.

(2) The centre of the disc shall be placed at such level below the deck-line marked under the provisions level below the deck-line marked under the provisions of this Part or of the Merchant Shipping Acts, as may be approved by the Local Government, and shall salt-water to which it shall be lawful to load the ship.'

(3) The position of the disc shall be fixed in accordance with the tables used from time to time by the Board of Trade subject to such allowance as may be necessary in consequence of any difference between the position of the deck-line marked under the provisions of this Part or of the Merchant Shipping Acts, and the position of the line from which free-board is measured under the said tables, and subject also to such modifications, if any, of the tables and the application thereof, as may from time to time, with the previous approval of the Governor General in Council, be sanctioned by the Local Government

(4) Any load-line marked under the Merchant Shipping Acts or under any enactment of any British Possession regarding which an Order in Council under section 444 of the Merchant Shipping Act, 1894 exists, and any certificate given in pursuance of these Acts or any such enactment in respect of such marking, shall have the same effect as if it had been marked or given in pursuance of this Part.

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Ships with
submerged
load-lines
deemed
unsafe.

219. If any ship, British or foreign, while in any port in British India, is so loaded as to submerge in perfectly smooth salt-water the centre of the disc indicating the load-line, the ship shall be deemed to be an unsafe ship within the meaning of the provisions hereinafter contained in this Part.

Time of
marking
load-line in
case of for-
eign-going
vessels.

220. (1) When any British or foreign-going ship proceeds on any voyage from a port in British India for which the owner is required to enter the ship outwards, the disc indicating the load-line shall be marked before so entering her, or, if that is not practicable, as soon afterwards as may be.

(2) Every

(2) Every person applying for entry of any such ship outwards shall insert, in the form of application made to the Customs-collector, a statement in writing of the distance in feet and inches between the centre of such disc and the upper edge of each of the lines indicating the position of the ship's decks which is above such centre; and, if default be made in delivering this statement, the Customs-collector may refuse to enter the ship outwards.

(3) The master of every British or foreign-going ship shall enter a copy of this statement in the agreement with the crew before it is signed by any member of the crew, and no shipping-master shall proceed with the engagement of a crew for any such ship until this entry has been made.

(4) The master of every British or foreign-going ship shall enter a copy of this statement in the official log-book (if any).

(5) When a ship has been marked as by this section required, she shall be kept so marked until she next returns to a port of discharge in British India or arrives at a port in the United Kingdom.

221. (1) When a ship which is a coasting vessel within the meaning of the Sea Customs Act, 1878, is required to be marked with the disc indicating the load-line, she shall be so marked before the ship proceeds to sea from any port.

Time for marking load line in case of coasting vessels.

(2) The master shall also once in every twelve months, immediately before the ship proceeds to sea, send or deliver to the Customs-collector, or other principal officer of Customs, of such port as the Local Government may appoint in this behalf, a statement in writing of the distance in feet and inches between the centre of the disc and the upper edge of each of the lines indicating the position of the ship's decks which is above that centre.

(3) The master, before the ship proceeds to sea after any renewal or alteration of the disc, shall send or deliver to the Customs-collector or other principal officer of Customs aforesaid notice in writing of such renewal or alteration, together with such statement in writing as before mentioned of the distance between

between the centre of the disc and the upper edge of each of the deck-lines.

(4) If default be made in sending or delivering any notice or statement required by this section to be sent or delivered, the master shall be liable to a fine which may extend to one thousand rupees.

(5) When a ship has been marked as required by this section, she shall be kept so marked until notice has been given of an alteration.

Penalty for offences relating to marking of load-line.

222. (1) If—

(a) any master of a ship neglects to cause his ship to be marked as by this Part required or to keep her so marked, or allows the ship to be so loaded that when in perfectly smooth salt-water the centre of the disc is submerged; or

(b) any person conceals, removes, alters, defaces or obliterates, or suffers any person under his control to conceal, remove, alter, deface or obliterate, any of the lines or marks prescribed by or under this Part, except in the event of the particulars thereby denoted being lawfully altered, or for the purpose of escaping capture by an enemy;

he shall be liable in respect of each such offence to a fine which may extend to one thousand rupees.

(2) The master of any ship on which any of the marks or lines prescribed by or under this Part is inaccurately placed so as to be likely to mislead, who does not forthwith cause such inaccuracy to be corrected, shall be liable to a fine which may extend to one thousand rupees.

Power to appoint officer to certify position of disc.

223. The Local Government shall appoint—

(a) a surveyor employed by Lloyd's or by any other society, corporation or association for the survey or registry of shipping approved by the Board of Trade under section 443 of the Merchant Shipping Act, 1894, and specially authorised in

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this

this behalf by Lloyd's or by such society, corporation or association, as the case may be, or

- (b) an officer specially selected by the Local Government for the purpose,

to approve and certify on its behalf from time to time the position of any disc indicating the load-line, and any alteration thereof, and may, with the previous sanction of the Governor General in Council, fix the fees to be taken in respect of any such approval or certificate.

224. (1) The Local Government, with the previous sanction of the Governor General in Council, ^{Power to make rules.} may make rules—

- (a) determining the lines or marks to be used in connection with any such disc as aforesaid, in order to indicate the maximum load-line under different circumstances and at different seasons, and declaring that the provisions of this Part are to have effect as if any such line were drawn through the centre of the disc;
- (b) as to the mode in which the disc and the lines or marks to be used in connection therewith are to be marked or affixed on the ship, whether by painting, cutting or otherwise;
- (c) as to the mode of application for, and form of, certificates under this Chapter; and
- (d) as to the entry of such certificates, and any other prescribed particulars concerning the draught of water and free-board of the ship, in the official log (if any) of the ship, or other publication thereof on board the ship, and as to delivering copies of such entries.

(2) Rules under clause (a) of sub-section (1) may, with respect to any class or classes of ships,—

- (i) declare what shall be deemed to be seasons of fair weather and seasons of foul weather,

weather, respectively, for any of the purposes of the rules, and

- (ii) modify the tables referred to in sub-section (3) of section 218.

Grain-Cargoes.

Stowage of
cargo of
grain, etc.

225. No cargo of which more than one-third consists of any kind of grain, corn, rice, paddy, pulse, seeds, nuts or nutkernels (hereinafter referred to as grain-cargo) shall be carried on board any British or foreign ship unless the same be contained in bags, sacks or barrels, or secured from shifting by boards or bulkheads or otherwise.

Penalty for
improper]
stowage of
such cargo.

226. If the owner or master of any ship, or any agent of such owner who is charged with the loading of such ship or the sending her to sea, knowingly allows any grain-cargo or part of a grain-cargo to be shipped therein for carriage contrary to the provisions of the last foregoing section, he shall be liable to a fine which may extend to three thousand rupees.

Savings.

Saving for
certain ships.

227. Nothing in the provisions of this Part relating to the overloading and improper loading of ships or to the marking of deck and load-lines shall apply to—

- (i) any sailing-ship of less than one hundred and fifty tons employed in plying coast-wise between ports situated in India and Ceylon;
- (ii) any ship of less than one hundred and fifty tons solely employed in fishing;
- (iii) any pleasure yacht;
- (iv) any foreign ship not bound to a port in British India for any purpose other than the purpose of embarking or landing passengers or taking in or discharging cargo or taking in bunker coal;
- (v) any

(v) any foreign ship which, if in a port of the United Kingdom, would be entitled to the benefit of a direction of His Majesty in Council under section 445 of the Merchant Shipping Act, 1894.

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228. (1) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, exclude from, or bring again within the operation of, all or any of the provisions of this Part relating to the overloading and improper loading of ships or to the marking of deck and load-lines subject to such modifications thereof (if any) as may be specified in the notification, any native craft not square-rigged

Power to exclude or re-include certain classes of ships.

(2) The Governor General in Council may, by notification in the Gazette of India, exclude from, or bring again within the operation of, the provisions of this Part relating to the marking of deck and load-lines any steam-ships of less than one hundred and fifty tons which are employed in plying coastwise between ports situated in India and Ceylon and do not carry cargo.

Unseaworthy Ships.

229. (1) Every person who sends or attempts to send a British ship to sea from any port in British India in such an unseaworthy state that the life of any person is likely to be thereby endangered shall, unless he proves that he used all reasonable means to insure her being sent to sea in a seaworthy state or that her going to sea in such unseaworthy state was under the circumstances reasonable and justifiable, be liable to imprisonment for a term which may extend to six months, or to a fine which may extend to one thousand rupees, or to both.

Every person sending unseaworthy ship to sea liable to penalty.

(2) Every master of a British ship who knowingly takes such ship to sea in such unseaworthy state that the life of any person is likely to be thereby endangered shall, unless he proves that her going to sea in such unseaworthy state was, under the circumstances,

circumstances, reasonable and justifiable, be liable to imprisonment for a term which may extend to six months, or to a fine which may extend to one thousand rupees, or to both.

(3) For the purpose of giving such proof, every person charged under this section may give evidence in the same manner as any other witness.

(4) No prosecution under this section shall be instituted except by, or with the consent of, the Local Government.

Unseaworthy
ships.

230. A ship is “unseaworthy” within the meaning of this Part when the materials of which she is made, her construction, the qualifications of the master, the number and description of the crew, the weight description and stowage of the cargo, the tackle, sails, rigging, stores, ballast, and other equipment are not such as to render her in every respect fit for the proposed voyage or service.

Obligation of
owner to
crew with
respect to
seaworthi-
ness.

231. (1) In every contract of service, express or implied, between the owner of a British ship and the master or any seaman thereof, and in every instrument of apprenticeship whereby any person is bound to serve as an apprentice on board any such ship, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner that such owner and the master, and every agent charged with the loading of such ship or the preparing thereof for sea, or the sending thereof to sea, shall use all reasonable means to secure the seaworthiness of such ship for the voyage at the time when such voyage commences, and to keep her in a seaworthy state for the voyage during the same.

(2) Nothing in this section shall subject such owner to any liability by reason of such ship being sent to sea in an unseaworthy state where, owing to special circumstances, the so sending her to sea is reasonable and justifiable.

Detention of unsafe ships by the Local Government.

Power to de-
tain unsafe
ship and pro-

232. (1) Where a British ship in any port to which the Local Government may specially extend this

this section is an unsafe ship, that is to say, is by reason of the defective condition of her hull, equipments or machinery, or by reason of overloading or improper loading, unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which she is intended, such ship may be provisionally detained for the purpose of being surveyed and either finally detained or released as follows, namely :—

- (a) The Local Government, if it has reason to believe, on complaint or otherwise, that any such ship is unsafe, may order the ship to be provisionally detained as an unsafe ship for the purpose of being surveyed.
- (b) A written statement of the grounds of such detention shall be forthwith served on the master of such ship.
- (c) When the Local Government provisionally orders the detention of a ship, it shall either refer the matter to the Court of Survey for the port where the ship is detained, or forthwith appoint some competent person to survey such ship and report thereon; and, on receiving his report, may either order the ship to be released or, if in its opinion the ship is unsafe, may order her to be finally detained, either absolutely or until the performance of such conditions with respect to the execution of repairs or alterations, or the unloading or reloading of cargo, as the Local Government thinks necessary for the protection of human life.
- (d) Before an order for final detention is made, a copy of the report shall be served upon the master of the ship, and within seven days after such service the owner or master may appeal against such report, in the manner prescribed, to the Court of Survey for the port where the ship is detained.

(e) Where

(e) Where a ship has been provisionally detained and a person has been appointed under this section to survey such ship, the owner or master of the ship, at any time before such person makes that survey, may require that he shall take with him as assessor such person as the owner or master may select, being a person named in the list of assessors for the Court of Survey or, if there is no such list, or if it is impracticable to procure the attendance of any person named in such list, a person of nautical, engineering or other special skill and experience. If the surveyor and assessor agree that the ship should be detained or released, the Local Government shall cause the ship to be detained or released accordingly, and the owner or master shall have no appeal. If the surveyor and assessor differ in their report, the Local Government may act as if the requisition had not been made, and the owner or master shall have such appeal touching the report of the surveyor as is hereinbefore provided in this section.

(f) Where a ship has been provisionally detained, the Local Government may, at any time if it thinks it expedient, refer the matter to the Court of Survey for the port where the ship is detained.

(g) The Local Government may at any time, if satisfied that a ship detained under this section is not unsafe, order her to be released either upon or without any conditions.

(2) Any person appointed by the Local Government for the purpose (in this Act referred to as a "detaining-officer") shall have the same power as the Local Government has under this section of provisionally ordering the detention of a ship for the purpose of being surveyed, and of appointing a person

person to survey her; and if he thinks that a ship so detained by him is not unsafe, may order her to be released.

(3) A detaining-officer shall forthwith report to the Local Government any order made by him for the detention or release of a ship

(4) A ship detained under this section shall not be released by reason of her British or British Indian register being subsequently closed.

(5) A detaining-officer shall have, for the purpose of his duties under this Part, the following powers, namely :—

- (a) he may go on board any British ship and may inspect the same or any part thereof, or any of the machinery, equipments and cargo on board thereof, and may require the unloading or removal of any cargo, ballast or tackle, not unnecessarily detaining or delaying her from discharging, unloading or proceeding on any voyage,
- (b) he may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him, may examine such persons. and may, by a like summons, require returns in writing to any inquiries he thinks fit to make;
- (c) he may require and enforce the production of all books, papers or documents which he considers important; and
- (d) he may administer oaths, or may, in lieu of administering an oath, require every person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

Costs of detention and damages incidental thereto.

233. If it appears that there was not reasonable and probable cause, by reason of the condition of the ship or the act or default of the owner, for the provisional detention of a ship, the Government shall

Liability of
Government
for costs and
damages
when ship
wrongly
detained.

be liable to pay to the owner of the ship his costs of and incidental to the detention and survey of the ship, and also compensation for any loss or damage sustained by him by reason of the detention or survey.

Liability of shipowner for costs when ship rightly detained.

234. If a ship is finally detained under this Part, or if it appears that a ship provisionally detained was at the time of such detention unsafe, the owner of the ship shall be liable to pay to Government its costs of and incidental to the detention and survey of the ship; and such costs shall, without prejudice to any other remedy, be recoverable as salvage is recoverable.

What included in costs of detention and survey.

235. For the purposes of this Act, the costs of and incidental to any proceeding before a Court of Survey, and a reasonable amount in respect of the remuneration of the surveyor or any person appointed to represent the Local Government before the Court, shall be deemed to be part of the costs of the detention and survey of the ship.

Power to require from complainant security for costs, etc.

236. When a complaint is made to the Local Government or a detaining-officer that a British ship is unsafe, it shall be in the discretion of such Government or officer (as the case may be) to require the complainant to give security to the satisfaction of such Government or officer for the costs and compensation which such complainant may become liable to pay as hereinafter mentioned :

Provided that, where the complaint is made by one-fourth, being not less than three, of the seamen belonging to the ship, and is not in the opinion of such Government or officer frivolous or vexatious, such security shall not be required; and such Government or officer shall, if the complaint is made in sufficient time before the sailing of the ship, take proper steps to ascertain whether the ship ought to be detained under this Part

Costs, etc., payable by Government recoverable from complainant.

237. Where a ship is detained in consequence of any complaint, and the circumstances are such that the Government is liable under this Part to pay to the owner of the ship any costs of compensation,

the

the complainant shall be liable to pay to the Government all such costs and compensation as the Government incurs, or is liable to pay, in respect of the detention and survey of the ship.

238. When a foreign ship is in a port in British India and is, whilst at that port, unsafe by reason of overloading or improper loading, the provisions of this Part with respect to the detention of ships shall apply to that foreign ship as if she were a British ship with the following modifications, namely :—

Application to foreign ships of provisions as to detention.

- (i) a copy of the order for the provisional detention of the ship shall forthwith be served on the consular officer for the country to which the ship belongs at or nearest to the port in which such ship is detained;
- (ii) the consular officer, at the request of the owner or master of the ship, may require that the person appointed by the Local Government to survey the ship shall be accompanied by such person as the consular officer may select, and in that case, if the surveyor and that person agree, the Local Government shall cause the ship to be detained or released accordingly; but, if they differ, the Local Government may act as if the requisition had not been made, and the owner and master shall have the like appeal to a Court of Survey touching the report of the surveyor as is hereinbefore provided in the case of a British ship; and
- (iii) where the owner or master of the ship appeals to the Court of Survey, the consular officer, at his request, may appoint a competent person to be assessor in the case in lieu of the assessor who, if the ship were a British ship, would be appointed otherwise than by the Local Government

Delegation of powers to Port Commissioners, etc.

239. (1) The Local Government may, from time to time, by notification in the local official Gazette, delegate, either absolutely or subject to such conditions or restrictions as it thinks fit, to any body of Commissioners or trustees appointed for managing the affairs of a port, all or any of the powers, and require the said body to discharge all or any of the functions of a Local Government under the foregoing sections of this Part, except the power of making rules.

(2) While any such notification remains in force, all costs and damages which would otherwise be recoverable under this Part by or from the Government shall be recoverable in like manner by or from such body; and such body shall, notwithstanding anything to the contrary contained in any enactment for the time being in force, credit or pay, as the case may be, the amount of any cost or damages so recovered to or from the funds held by them in trust as such body.

Installation of Wireless Telegraphy.

Commencement.

240. The provisions of this Part in regard to the installation of wireless telegraphy on ships registered in British India shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, direct.

Definitions.

241. In the provisions of this Part relating to the installation of wireless telegraphy, "passenger steamer" means a steam-ship which carries more than twelve passengers.

Wireless telegraphy requirements.

242. (1) Every sea-going British ship registered in British India, being a passenger steamer or a ship of sixteen hundred tons gross tonnage or upwards shall be provided with a wireless telegraph installation of the prescribed description, and shall maintain a wireless telegraph service of the prescribed nature, and shall be provided with such certificated operators and watchers as may be prescribed :

Provided that the Governor General in Council may, by notification in the Gazette of India, exempt from the obligations imposed by this section, any ships

ships or classes of ships if he is of opinion that, having regard to the nature of the voyages on which the ships are engaged, or other circumstances of the case, the provision of a wireless telegraph installation is unnecessary or unreasonable

(2) If this section is not complied with in the case of any such ship, the master or owner of the ship shall be liable in respect of each offence to a fine which may extend to one thousand rupees.

243. (1) The Governor General in Council may appoint officers (hereinafter referred to in this Act as wireless telegraphy inspectors) for the purpose of seeing that the requirements of this Part relating to wireless telegraphy are complied with on board any ship.

Appointment
and powers
of wireless
telegraphy
inspectors

(2) A wireless telegraphy inspector may inspect any ship for the purpose of seeing that she is properly provided with a wireless telegraph installation and certificated operators and watchers in conformity with this Part and for this purpose may go on board any ship at all reasonable times and do all things necessary for the proper inspection of the ship for the purpose of the provisions of this Part relating to wireless telegraphy, and may also require the master of the ship to supply him with any information which it is in the power of the master to supply for that purpose, including the production of any certificate granted under this Part in respect of the installation, and of the certificates of the operators and watchers on the ship.

(3) If a wireless telegraphy inspector finds that a ship is not provided, he shall give to the master or owner notice in writing pointing out the deficiency, and also pointing out what in his opinion is requisite to remedy the same.

(4) Every notice given under sub-section (3) shall be communicated, in the prescribed manner, to the Chief Officer of Customs of any port at which the ship may seek to obtain port-clearance, who shall order that the ship shall be detained until a certificate under the hand of a wireless telegraphy inspector is produced to the effect that the ship is properly

properly provided with a wireless telegraph installation and certified operators and watchers in conformity with this Part.

Application
to ships
other than
British ships
registered in
British India.

244. The provisions of this Part relating to wireless telegraphy shall, as from a date three months after the coming into force of those provisions, apply to ships other than British ships registered in British India while they are within any port in British India in like manner as they apply to British ships registered in British India.

Power to
make rules.

245. (1) The Governor General in Council may make rules to carry out the purposes of the provisions of this Part relating to wireless telegraphy.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

- (a) the nature of the wireless telegraph installation to be provided and of the service to be maintained, and the number, grades and qualifications of certified operators and watchers to be carried :

Provided that no ship shall be required to carry more than one operator, unless more than one operator would have been required under the provisions of the Merchant Shipping (Convention) Act, ^{4 & 5 Geo. V, c. 50.} 1914;

- (b) the manner in which a notice given under sub-section (3) of section 243 shall be communicated to the Chief Officer of Customs.

PART VI.

SPECIAL SHIPPING INQUIRIES AND COURTS.

Shipping
casualties
and report
thereof.

246. (1) For the purpose of inquiries and investigations under this Part a shipping casualty shall be deemed to occur when—

- (a) on or near the coasts of British India, any ship is lost, abandoned, stranded or materially damaged;

(b) any

- (b) any loss of life ensues by reason of any casualty happening to, or on board of, any ship on or near those coasts;
- (c) on or near those coasts, any ship causes loss or material damage to any other ship;
- (d) in any place any such loss, abandonment, stranding, damage or casualty occurs to, or on board of, any British ship, and any competent witness thereof is found at any place in British India; or
- (e) any British ship is supposed to have been lost, and any evidence can be obtained in British India as to the circumstances under which she proceeded to sea or was last heard of.

(2) In sub-section (1), the word "coasts" includes the coasts of creeks and tidal rivers.

(3) In the cases mentioned in clauses (a), (b) and (c) of sub-section (1), the master, pilot, harbour-master or other person in charge of the ship, or (where two ships are concerned) in charge of each ship, at the time of the shipping casualty, and

in cases under clause (d) of sub-section (1), where the master of the ship concerned or (except in the case of a loss) where the ship concerned proceeds to any place in British India from the place where the shipping casualty has occurred, the master of the ship,

shall, on arriving in British India, give immediate notice of the shipping casualty to the nearest Magistrate or, when he arrives at a port in British India, to any officer appointed by the Local Government in this behalf at that port.

(4) Any person bound to give notice under this section and wilfully failing to give the same shall be liable to a fine which may extend to five hundred rupees, and, in default of payment, to simple imprisonment for a term which may extend to three months.

247. (1) Whenever any Magistrate or any officer appointed by the Local Government in this behalf receives

Report of
shipping
casualties to

the Local
Government.

receives credible information that a shipping casualty has occurred, he shall forthwith report in writing the information to the Local Government.

(2) Any such Magistrate or officer—

- (i) may go on board any ship, and may inspect the same or any part thereof, or any of the machinery, boats, equipments or articles on board thereof, to which the provisions of this Act apply, not unnecessarily detaining or delaying her from proceeding on any voyage;
- (ii) may enter and inspect any premises the entry or inspection of which appears to him to be requisite for the purpose of the report which he is directed to make;
- (iii) may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him and examine for such purpose, and may require answers or returns to any inquiries he thinks fit to make;
- (iv) may require and enforce the production of all books, papers or documents which he considers important for such purpose; and
- (v) may administer oaths, or may, in lieu of requiring or administering an oath, require any person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

Power for
Local Gov-
ernment to
appoint spe-
cial Court
of Investiga-
tion.

248. (1) If the Local Government to which the report prescribed by the last foregoing section has been made or within whose territories any competent witnesses of any shipping casualty have arrived or are to be found, or any evidence thereof can be obtained, is of opinion that a formal investigation into the shipping casualty is requisite or expedient, the Local Government may appoint a special Court, consisting of not less than two nor more than four persons,

persons, and direct that Court to make the investigation, and may fix the place for making the same.

(2) One of the members of the Court shall be a Magistrate acting in or near the place where the investigation is made; another shall be some person conversant with maritime affairs; and the other or others (if any) shall be conversant with either maritime or mercantile affairs.

249. Every Colonial Court of Admiralty in British India, and the principal Court of ordinary criminal jurisdiction at every port of British India, where there is no such Court is hereby authorised, when so directed by the Local Government or by such officer as the Local Government has empowered in this behalf, to make a formal investigation into a shipping casualty.

Power for other Courts to hold investigations into casualties when so directed.

250. (1) Any Court making a formal investigation into a shipping casualty may inquire into any charge of incompetency or misconduct arising, in the course of the investigation, against any master, mate or engineer, as well as into any charge of a wrongful act or default on his part causing the shipping casualty.

Power for Court of Investigation to inquire into charges against masters, mates and engineers.

(2) In every case in which any such charge, whether of incompetency or misconduct, or of a wrongful act or default, as aforesaid, arises against any master, mate or engineer in the course of an investigation, the Court shall, before the commencement of the inquiry, cause to be furnished to him a copy of the report or statement of the case upon which the investigation has been directed.

251. (1) If the Local Government has reason to believe that there are grounds for charging any master, mate or engineer with incompetency or misconduct, otherwise than in the course of a formal investigation into a shipping casualty, the Local Government—

Power for Local Government to direct investigation into charges of incompetency or misconduct.

(a) if the master, mate or engineer holds a certificate under this Act, in any case,

(b) if

(b) if the master, mate or engineer holds a certificate under the Merchant Shipping Acts, in the following cases :—

- (i) where the incompetency or misconduct has occurred on a British ship on or near the coasts of British India, or on board a British ship in the course of a voyage to a port within the colony;
- (ii) where the incompetency or misconduct has occurred on board a British ship registered in British India;
- (iii) where the master, mate or engineer of a British ship, who is charged with incompetency or misconduct on board that British ship, is found in British India;

may transmit a statement of the case to any Court mentioned in section 249 at or nearest to the place at which it may be convenient for the parties and witnesses to attend, and may direct that Court to make an investigation into that charge.

(2) Before commencing the investigation, the Court shall cause the master, mate or engineer so charged to be furnished with a copy of the statement transmitted by the Local Government.

Person
accused to be
heard.

252. For the purpose of an investigation under this Part into any charge against a master, mate or engineer, the Court may summon him to appear, and shall give him full opportunity of making a defence either in person or otherwise.

Powers of
Courts as to
evidence and
regulation of
proceedings

253. For the purpose of any investigation under this Part, the Court making the investigation, so far as relates to compelling the attendance and examination of witnesses and the production of documents and the regulation of the proceedings, shall have—

- (a) if the Court is a special Court—the same powers as are exerciseable by the principal Court of ordinary criminal jurisdiction

jurisdiction for the place at which the investigation is made;

- (b) if the Court is a Court having admiralty jurisdiction or a principal Court of ordinary criminal jurisdiction—the same powers as are exercisable by that Court in the exercise of its admiralty or criminal jurisdiction (as the case may be).

254. (1) When any investigation involves, or appears likely to involve, any question as to the cancelling or suspension of the certificate of a master, mate or engineer, the Court making the investigation shall constitute as its assessors for the purpose of the investigation two persons having experience in the merchant service; and in every other investigation the Court making it may, if it thinks fit, constitute as its assessor for the purposes of the investigation any person conversant with maritime affairs and willing to act as its assessor.

(2) The assessors shall attend during the investigation and deliver their opinions in writing, to be recorded on the proceedings, but the exercise of all powers conferred on the Court by this Part or any other enactment for the time being in force shall rest with the Court.

255. (1) If any Court making an investigation under this Part thinks it necessary for obtaining evidence that any person should be arrested, it may issue a warrant for his arrest, and may, for the purpose of effecting the arrest, authorise any officer (subject, nevertheless, to any general or special instructions from the Local Government) to enter any vessel.

Power to arrest witnesses and cause entry and detention of vessels.

(2) Any officer so authorised may, for the purpose of enforcing the entry, call to his aid any officers of Police or Customs, or any other persons, and may seize and detain the vessel for such time as is reasonably necessary to effect the arrest.

(3) No person shall be detained by virtue of this section for more than forty-eight hours.

256. Whenever,

Power to
commit for
trial and bind
over witness-
es.

256. Whenever, in the course of any such investigation, it appears that any person has committed within the jurisdiction of any Court in British India an offence punishable under any law in force in British India, the Court making the investigation may (subject to such rules consistent with this Act as the High Court may from time to time prescribe) cause him to be arrested, or commit him or hold him to bail to take his trial before the proper Court, and may bind over any person to give evidence at the trial, and may, for the purposes of this section, exercise all the powers of a Magistrate of the first class or of a Presidency Magistrate.

Report by
Court to Lo-
cal Govern-
ment.

257. (1) The Court shall, in the case of all investigations under this Part, transmit to the Local Government a full report of the conclusions at which it has arrived, together with the evidence.

(2) In cases in which, under the Merchant Shipping Acts, the Court is required to send a report to the Board of Trade, the report shall be sent through the Local Government, and the transmission of the report to the Local Government shall be a sufficient compliance with this section.

*Suspension and Cancellation of Certificates and
Grant of fresh Certificates.*

Saving of
power to can-
cel and sus-
pend certi-
ficates and re-
move master
under Eng-
lish Acts.

258. Nothing in this Part shall affect the powers conferred by the Merchant Shipping Acts, on the Courts conducting investigations under this Part, to cancel or suspend certificates granted under any of the said Acts, or the power to remove the master of a ship conferred by section 472 of the Merchant Shipping Act, 1894.

57 & 58
Vict., c. 60.

Power to
issue local
certificates in
lieu of can-
celled or sus-
pended
certificates.

259. (1) When any such Court cancels or suspends any such certificate, the Local Government may, if it thinks fit, and if it is so empowered by any enactment of a British Indian Legislature for the time being in force, grant under that enactment, but without examination, to the holder of the certificate, when the certificate is a certificate as master, a certificate as mate, and, when the certificate is a certificate

certificate as mate or engineer, a certificate as mate or engineer, as the case may be, of a grade lower than that which he held at the time of the cancellation or suspension.

(2) A certificate so granted shall have the same effect as if it had been granted after examination, but shall not have the effect of a certificate granted under the provisions of the Merchant Shipping Acts

(3) The Local Government may act under this section either in pursuance of a recommendation from the Court or of its own motion.

260. (1) Any certificate which has been granted by any Local Government to any master, mate or engineer, may be suspended or cancelled, by that or any other Local Government, in the following cases, that is to say:—

Power to Local Government to suspend or cancel certificates in certain cases.

- (a) if, on any investigation made under the Merchant Shipping Acts, or on any investigation made by any Court or tribunal for the time being authorised by the legislative authority in any British possession to make inquiry into charges of incompetency or misconduct on the part of masters, mates or engineers of ships, or as to shipwrecks or other casualties affecting ships, the Court or tribunal reports that the master, mate or engineer is incompetent or has been guilty of any gross act of misconduct, drunkenness or tyranny, or that the loss, stranding or abandonment of, or damage to, any ship, or loss of life, has been caused by his wrongful act or default;
- (b) if he is proved to have been convicted of any offence which, if committed in British India, would be non-bailable, or, if committed in England, would be a felony; and
- (c) if (in case of a master) he has been superseded by the order of any Admiralty

Admiralty Court, or of any Naval Court constituted as provided by the Merchant Shipping Act, 1894, or by any other law for the time being in force. ^{57 & 58}
^{Vict., c. 60.}

(2) Notwithstanding anything contained in this Act, the Local Government may, at any time, without any formal investigation, suspend or cancel any engine driver's certificate granted by it if, in its opinion, the holder is, or has become, unfit to act as an engine driver.

Report to
other Local
Governments.

261. If the Local Government which cancels or suspends a certificate of a master, mate or engineer is not the Local Government by or under the authority of which the same was granted, the Local Government so cancelling or suspending the certificate shall report the proceedings, and the fact of cancellation or suspension, to that Local Government.

Report to
Board of
Trade

262. Every Local Government cancelling or suspending under section 260 the certificate of a master, mate or engineer shall, as soon as may be practicable, report to the Board of Trade the fact of such cancellation or suspension.

Power to re-
voke cancel-
lation or sus-
pension and
grant new
certificate.

263. (1) Any Local Government may at any time revoke any order of cancellation or suspension which it may have made under section 260, or grant, without examination to any person whose certificate it has so cancelled, a new certificate of the same or of any lower grade.

(2) A certificate so granted shall have the same effect as if it had been granted after examination, but shall not have the effect of a certificate granted under the provisions of the Merchant Shipping Acts.

Power of
Court of In-
vestigation
or Inquiry as
to certificates
granted by a
Local Gov-
ernment.

264. (1) A certificate of a master, mate or engineer which has been granted by a Local Government under this Act may be cancelled or suspended—

(a) by a Court holding a formal investigation into a shipping casualty under this Part if the Court finds that the loss, stranding or abandonment of, or damage to,
any

any ship, or loss of life, has been caused by the wrongful act or default of such master, mate or engineer;

- (b) by a Court holding an investigation under this Part into the conduct of the master, mate or engineer if the Court finds that he is incompetent or has been guilty of any gross act of drunkenness, tyranny or other misconduct.

(2) At the conclusion of the investigation, or as soon afterwards as possible, the Court shall state in open sitting the decision to which it may have come with respect to the cancelment or suspension of any certificate.

(3) Where the Court cancels or suspends a certificate, the Court shall forward it to the Local Government, together with the report which it is required by this Part to transmit to that Government.

(4) A certificate shall not be cancelled or suspended by a Court under this section unless a copy of the report or a statement of the case on which the investigation or inquiry has been ordered has been furnished before the commencement of the investigation or inquiry to the holder of the certificate.

(5) The duties imposed and powers conferred by sections 261, 262 and 263 on the Local Government which cancels or suspends a certificate shall, when a Court has under this section cancelled or suspended a certificate, be performed and exercised by the Local Government to which the Court has forwarded the certificate under sub-section (3), as if such Local Government had itself cancelled or suspended the certificate under section 260.

265. (1) The principal Court of ordinary criminal jurisdiction at any port in British India, where there is no Colonial Court of Admiralty, may remove the master of any ship within the jurisdiction of that Court if that removal is shown to the satisfaction of the Court by evidence on oath to be necessary.

Power to remove master and appoint a new master.

(2) The

(2) The removal may be made upon the application of the owner of any ship or his agent, or of the consignee of the ship, or of any certificated mate, or of one-third or more of the crew of the ship.

(3) The Court may appoint a new master instead of the one removed, but where the owner, agent or consignee of the ship is within the jurisdiction of the Court, such an appointment shall not be made without the consent of that owner, agent or consignee.

(4) The Court may also make such order and require such security in respect of the costs of the matter as the Court thinks fit.

Delivery of
certificate
cancelled or
suspended.

266. (1) A master, mate, or engineer whose certificate is cancelled or suspended by any Court or by the Local Government shall deliver his certificate—

(a) if cancelled or suspended by a Court, to that Court;

(b) if cancelled or suspended by a Local Government, to that Local Government, or to a shipping-master or other person appointed in this behalf by that Local Government.

(2) If a master, mate or engineer fails to comply with this section, he shall for each offence be liable to a fine which may extend to five hundred rupees.

Investigations into Explosions.

Power to in-
vestigate
causes of ex-
plosions on
board steam-
ships.

267. (1) Whenever any explosion occurs on board any steam-ship on or near the coasts of British India, the Local Government may, if it thinks fit, direct that an investigation into the cause of the explosion be made by such person or persons as it thinks fit.

(2) The person or persons so directed may enter into and on the steam-ship, with all necessary workmen and labourers, and remove any portion of the steam-ship, or of the machinery thereof, for the purpose of the investigation, and shall report to the

the Local Government what, in his or their opinion, was the cause of the explosion.

Courts of Survey.

268. (1) A Court of Survey for a port shall consist of a Judge sitting with two assessors.

*Constitution
of Court of
Survey.*

(2) The Judge shall be a District Judge, Judge of a Court of Small Causes, Presidency Magistrate, Magistrate of the first class or other fit person appointed in this behalf by the Local Government either generally or for any specified case

(3) The assessors shall be persons of nautical engineering or other special skill or experience.

(4) Subject to the provisions of Part V as regards foreign ships, one of the assessors shall be appointed by the Local Government either generally or in each case, and the other shall be summoned by the Judge in the manner prescribed, out of a list of persons from time to time prepared for the purpose and published by the Local Government in the local official Gazette, or, if there is no such list or if it is impracticable to procure the attendance of any person named in such list, shall be appointed by the Judge.

269. (1) The Judge shall, on receiving notice of an appeal or a reference from the Local Government, immediately summon the assessors to meet forthwith in the prescribed manner.

*Powers and
procedure
of Court of
Survey.*

(2) The Court of Survey shall hear every case in open Court.

(3) The Judge and each assessor shall, for the purposes of this Act, have the same powers of inspection, and of enforcing the attendance of witnesses and the production of evidence, as are by this Act conferred on a detaining-officer.

(4) The Judge may appoint any competent person to survey the ship and report thereon to the Court.

(5) The Judge shall have the same power as the Local Government has to order the ship to be released

or

or finally detained; but, unless one of the assessors concurs in an order for the detention of the ship, the ship shall be released.

(6) The owner and master of the ship and any person appointed by the owner or master and also any person appointed by the Local Government, may attend at any inspection or survey made in pursuance of this section.

(7) The Judge shall report the proceedings of the Court in each case to the Local Government in the manner prescribed, and each assessor shall either sign such report or report to the Local Government the reasons for his dissent.

Power of
Local Govern-
ment to
make rules
with respect
to Court of
Survey.

270. The Local Government may make rules to carry into effect the provisions of this Act with respect to a Court of Survey, and, in particular and without prejudice to the generality of the foregoing power, with respect to—

- (a) the procedure before the Court;
- (b) the requiring, on an appeal, of security for costs and damages;
- (c) the amount and application of fees; and
- (d) the ascertainment, in case of dispute, of the proper amount of costs.

Scientific Referees.

Reference in
difficult cases
to scientific
persons.

271. (1) If the Local Government is of opinion that an appeal to a Court of Survey involves a question of construction or design or of scientific difficulty, or important principle, it may refer the matter to such one or more out of a list of scientific referees to be from time to time prepared by the Local Government, as may appear to possess the special qualifications necessary for the particular case, and may be selected by agreement between the Port-officer and the appellant, or, in default of any such agreement, by the Local Government; and thereupon the appeal shall be determined by the referee or referees instead of by the Court of Survey.

(2) The

(2) The Local Government, if the appellant in any such appeal so requires and gives security to its satisfaction to pay the costs of and incidental to the reference, shall refer such appeal to a referee or referees selected as aforesaid.

(3) The referee or referees shall have the same powers as a Judge of the Court of Survey.

PART VII.

WRECK AND SALVAGE.

272. In this Part "wreck" includes the following when found in the sea or any tidal water or on the shores thereof:— "Wreck defined."

- (a) goods which have been cast into the sea and then sink and remain under water;
- (b) goods which have been cast or fall into the sea and remain floating on the surface;
- (c) goods which are sunk in the sea, but are attached to a floating object in order that they may be found again;
- (d) goods which are thrown away or abandoned; and
- (e) a ship abandoned without hope or intention of recovery.

273. (1) The Local Government may, by notification in the local official Gazette, appoint such person as it thinks fit to receive and take possession of wreck and to perform such duties connected therewith as are hereinafter mentioned, within such local limits as it may prescribe. Appointment of receivers

(2) Persons so appointed shall be called receivers of wreck.

274. (1) Any person finding and taking possession of any wreck within any local limits for which a receiver of wreck has been so appointed, or bringing within such limits any wreck which has been Rules to be observed by persons finding wreck.

been found and taken possession of elsewhere, shall, as soon as practicable,—

- (a) if he be the owner thereof, give the receiver of wreck notice in writing of the finding thereof and of the marks by which such wreck is distinguished;
- (b) if he be not the owner of such wreck, deliver the same to the receiver of wreck.

(2) Any person omitting to give notice of the finding of, or to deliver, any wreck to the receiver of wreck as required by sub-section (1) shall be liable to a fine which may extend to one thousand rupees, and, in the case of omission to deliver any wreck, shall, in addition to such fine, forfeit all claim to salvage, and pay to the owner of such wreck if the same is claimed, or if the same is unclaimed to the Government, a penalty not exceeding twice the value of such wreck.

Government
or person
finding wreck
entitled to
salvage.

275. (1) Whenever any wreck is found by the receiver of wreck or has been delivered to him in accordance with the provisions of this Part by any person, not being the owner thereof, the Government or such other person so delivering such wreck, as the case may be, shall be entitled to receive a reasonable sum for salvage, having regard to all the circumstances of the case.

(2) Any dispute arising concerning the amount due under this section shall be determined by a Magistrate upon application to him for that purpose by either of the disputing parties.

Notice to be
given by
receiver.

276. The receiver of wreck shall, on taking possession of any wreck, publish a notification, in such manner and at such place as the Local Government may prescribe in this behalf, containing a description of the same and the time at which and the place where the same was found.

Wreck may
in certain
cases be sold.

277. If after the publication of such notification the wreck is unclaimed, or if the person claiming the same fails to pay the amount due for salvage and for charges incurred by the receiver of wreck in respect

respect thereof, the receiver of wreck may sell such wreck by public auction, if of a perishable nature, forthwith, and, if not of a perishable nature, at any period not less than six months after such notification as aforesaid.

278. On the realization of the proceeds of such sale, the amount due for salvage and charges as aforesaid, together with the expenses of the sale, shall be deducted therefrom, and the balance shall be paid to the owner of the wreck, or if no such person appear and claim the same, shall be held in deposit for payment, without interest, to any person thereafter establishing his right to the same: Proceeds how applied.

Provided that he makes his claim within one year from the date of the sale.

279. Nothing in this Part shall be deemed to— Savings.

(a) affect the declaration of the twenty-third day of October, 1889, in Schedule IV, between the Government of the United Kingdom of Great Britain and Ireland and the Government of the French Republic, with reference to the disposal of the proceeds of wrecks on their respective coasts, that declaration having been made applicable to India, or

(b) affect section 29 of the Indian Ports Act, 1908, or entitle any person to salvage in respect of any property recovered by creeping or sweeping in contravention of that section.

XV of 1908

PART VIII.

LEGAL PROCEEDINGS.

280. The following persons shall be deemed to be public servants within the meaning of the Indian Certain persons to be deemed Public Servants.

XLV of 1860. Penal Code, namely:—

(a) Every surveyor appointed under this Act.

(b) Every judge, assessor or other person acting under Part VI.

(c) Every

- (c) Every person appointed under this Act to report information as to shipping casualties.
- (d) Every person authorised under this Act to make any investigation under Part VI, and all persons whom he calls to his aid.
- (e) Every person directed to make an investigation into an explosion on a steam-ship under section 267.
- (f) Every Wireless Telegraphy Inspector appointed under this Act.

Jurisdiction
of Magis-
trates.

281. No Magistrate shall try any offence against this Act or any rule made thereunder unless he is a Presidency Magistrate or a Magistrate whose powers are not less than those of a Magistrate of the first class.

Place of trial
of the
offender.

282. Any person committing any offence against this Act or any rule thereunder, may be tried for the offence in any place in which he may be found or which the Local Government may, by notification in the local official Gazette, direct in this behalf, or in any other place in which he might be tried under any other law for the time being in force.

Depositions
to be re-
ceived in evi-
dence when
witnesses
cannot be
produced.

283. (1) Whenever, in the course of any legal proceeding under this Act instituted at any place in British India before any Court or Magistrate, or before any person authorised by law or by consent of parties to receive evidence, the testimony of any witness is required in relation to the subject-matter, and the defendant or the person accused (as the case may be), after being allowed a reasonable opportunity for so doing, does not produce the witness before the Court, Magistrate or person so authorised, any deposition previously made by the witness in relation to the same subject-matter before any Court, Justice or Magistrate in His Majesty's dominions (including all parts of British India other than those subject to the same Local Government as the place where the proceeding is instituted), or before any British consular officer, if elsewhere, shall be admissible in evidence—

- (a) if the deposition is authenticated by the signature of the presiding officer of the Court

Court or of the Justice, Magistrate or consular officer before whom it is made;

- (b) if the defendant or the person accused had an opportunity by himself or his agent of cross-examining the witness;
- (c) if the proceeding is criminal, on proof that the deposition was made in the presence of the person accused.

(2) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition; and a certificate by such person that the defendant or the person accused had an opportunity of cross-examining the witness, and that the deposition, if made in a criminal proceeding, was made in the presence of the person accused, shall, unless the contrary is proved, be sufficient evidence that he had that opportunity and that it was so made.

284. (1) Where under this Act a ship is authorised or ordered to be detained any commissioned officer on full pay in the Naval or Military service of His Majesty, any commander or first officer in the Royal Indian Marine Service, or any port officer, harbour master, conservator of a port, or officer of Customs may detain the ship.

Enforcing
detention of
ship.

(2) If any ship after detention, or after service on the master of any notice of, or order for, such detention, proceeds to sea before she is released by competent authority, the master of the ship shall be liable to a fine which may extend to one thousand rupees.

(3) When a ship so proceeding to sea takes to sea, when on board thereof in the execution of his duty, any person authorised under this Act to detain or survey such ship, the owner and master of such ship shall each be liable to pay all expenses of, and incidental to, such person being so taken to sea, and shall also each be liable to a fine which may extend to one thousand rupees.

(4) When

(4) When any owner or master is convicted of an offence under sub-section (3), the convicting Magistrate may inquire into and determine the amount payable on account of expenses by such owner or master under that sub-section, and may direct that the same shall be recovered from him in the manner provided for the recovery of fines.

Levy of wages, etc., by distress of moveable property.

285. When an order under this Act for the payment of any wages or other money is made by a shipping-master or a Magistrate and the money is not paid at the time or in the manner directed, the sum mentioned in the order with such further sum as may be thereby awarded for costs, may be levied by distress and sale of the moveable property of the person directed to pay the same under a warrant to be issued for that purpose by a Magistrate.

Levy of wages, fines, etc., by distress of ship.

286. Where any Court or Magistrate has power to make an order directing payment to be made of any seaman's wages, fines or other sums of money, then if the person so directed to pay the same is the master or owner of a ship, and the same is not paid at the time or in the manner directed by the order, the Court or Magistrate may, in addition to any other power it or he may have for the purpose of compelling payment by warrant, direct the amount remaining unpaid to be levied by distress and sale of the ship, her tackle, furniture and apparel.

Service of documents.

287. Where for the purposes of this Act any document is to be served on any person, that document may be served—

- (a) in any case by delivering a copy thereof personally to the person to be served, or by leaving the same at his last place of abode; and
- (b) if the document is to be served on the master of a ship, where there is one, or on a person belonging to a ship, by leaving the same for him on board that ship, with the person being or appearing to be in command or charge of the ship; and
- (c) if the document is to be served on the master of a ship, where there is no master and the

the ship is in British India, on the managing owner of the ship, or, if there is no managing owner, on some agent of the owner residing in British India, or, where no such agent is known or can be found, by affixing a copy thereof to the mast of the ship.

288. A Magistrate imposing a fine under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any detriment which he may have sustained by the act or default in respect of which the fine is imposed or in or towards payment of the expenses of the prosecution.

Application
of fines.

PART IX.

SUPPLEMENTAL.

289. (1) Where a shipping-master has reasons to suspect that the provisions of this Act are not complied with, that officer may—

Powers to
see Act is
complied
with.

- (a) enter on board any British ship, and
- (b) muster and examine the crew.

(2) If any person obstructs any shipping-master in the execution of his duty under this section, he shall be liable to a fine which may extend to one hundred rupees.

Ship Surveyors.

290. The Local Government may appoint competent persons for the purpose of examining the qualifications of persons desirous of practising the profession of a ship surveyor at any port in the territories administered by such Government, and, subject to the control of the Governor General in Council, make rules—

Power to
appoint exam-
iners and
to make
rules as to
qualifications
of ship
surveyors.

- (a) for the conduct of such examinations and the qualifications to be required,
- (b) for the grant of certificates to qualified persons,

(c) for
147

- (c) for the fees to be paid for such examinations and certificates,
- (d) for holding inquiries into charges of incompetency and misconduct on the part of holders of such certificates, and
- (e) for the suspension and cancellation of such certificates.

No person to practise as ship surveyor unless qualified.

291. No person shall, in any port in which there is a person exercising the profession of a ship surveyor and holding a certificate granted under section 290 exercise such profession in such port unless he holds a certificate granted under that section :

Provided that nothing herein contained shall prevent any person employed by Lloyd's Register of British and Foreign Shipping or Bureau Veritas from discharging any of the duties of such employment, or apply to any person specially exempted by the Local Government from the operation of this section

Penalty for practising as ship surveyor or without certificate.

292. Any person exercising the profession of a ship surveyor in contravention of the provisions of section 291 shall be liable to a fine not exceeding one thousand rupees, and shall be incapable of maintaining any suit for any fee or reward for anything done by him.

Powers of person appointed or authorised to survey ship.

293. Any person appointed or authorised under this Act to survey a ship may, in the execution of his duties, go on board the ship and inspect the same and every part thereof, and the machinery, equipments and cargo, and may require the unloading or removal of any cargo, ballast or tackle.

Provisions with respect to rules.

294. All rules made under this Act shall be published in the Gazette of India or the local official Gazette, as the case may be, and, on such publication, shall have effect as if enacted in this Act.

Protection to persons acting under Act.

295. No suit or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

296. (1) The

296. (1) The enactments mentioned in Schedule V are hereby repealed to the extent specified in the fourth column thereof Repeal.

(2) Any body constituted, and any office established under any enactment hereby repealed, shall continue and be deemed to have been constituted, or established, as the case may be, under this Act.

X of 1897. (3) The mention of particular matters in this section shall not be held to prejudice or affect the general application of the provisions of the General Clauses Act, 1897, with regard to the effect of repeals.

SCHEDULE I.

(See section 9.)

TABLE A.

FEES TO BE CHARGED FOR MATTERS TRANSACTED AT SHIPPING OFFICES.

1. Engagement or discharge of crews:—

					Rs.	A.	P.
In ships under 100 tons	.	.	.	.	3	0	0
From 100 to 200 „	.	.	.	.	7	0	0
200 to 300 „	.	.	.	.	10	0	0
300 to 400 „	.	.	.	.	12	8	0
400 to 500 „	.	.	.	.	15	0	0
500 to 600 „	.	.	.	.	17	8	0
600 to 700 „	.	.	.	.	20	0	0
700 to 800 „	.	.	.	.	22	8	0
800 to 900 „	.	.	.	.	25	0	0
900 to 1,000 „	.	.	.	.	27	8	0
above 1,000 „	.	.	.	.	30	0	0

and so on for ships of larger tonnage, adding for every one hundred tons above one thousand, two rupees and eight annas.

2. Engagement or discharge of seamen separately—one rupee for each seaman.

TABLE B.

TABLE B.

SUMS TO BE DEDUCTED FROM WAGES BY WAY OF PARTIAL
REPAYMENT OF FEES IN TABLE A.

1. In respect of engagements and discharges of crews,
upon each engagement and each discharge—

	Rs.	A.	P.
From wages of any mate, purser, engineer, surgeon, carpenter or steward	0	12	0
From wages of all others except apprentices	0	8	0

2. In respect of engagements and discharges of seamen, separately, upon each engagement and each discharge

0	8	0
---	---	---

SCHEDULE II.

(*See section 131.*)

Rates of Fees payable in respect of Survey of Steam-ships.

	Tons	Rs.
For steam-ships of less than	200	40
„ „ 200 tons and up to	350	50
„ „ 350 „ „ „	700	60
„ „ 700 „ „ „	1,000	80
„ „ 1,000 „ „ „	1,500	100
„ „ 1,500 „ and upwards . . . . .	...	120

SCHEDULE III.

(*See section 146.*)

PART I.

(*Applied sections of the Merchant Shipping Act, 1894.*)

Expenses of
rescue and
conveyance
of wrecked
passengers.

332. If any passenger, whether a cabin or a steerage passenger, is either taken off any ship which is carrying any steerage passenger on a voyage from any part of His Majesty's dominions and is damaged, wrecked, sunk or otherwise destroyed, or if any such passenger is picked up at

at sea from any boat, raft, or otherwise, it shall be lawful—

- (a) if the port to which such passenger (in this Act referred to as “wrecked passenger”) is conveyed is in the United Kingdom, for a Secretary of State; and
- (b) if the port is in a British possession, for the Governor of that possession, or any person authorised by him for the purpose; and
- (c) if the port is elsewhere, for the British Consular Officer there;

to defray all or any part of the expenses thereby incurred.

333. (1) If any passenger, whether a cabin or a steerage passenger from any ship which is carrying any steerage passengers on a voyage from any port in His Majesty's dominions, finds himself, without any neglect or default of his own, at any port outside the British Islands other than the port for which the ship was originally bound, or at which he, or the Board of Trade, or any public officer or other person on his behalf, has contracted that he should land, it shall be lawful—

Forwarding
of passengers
by Governors
or Consuls.

- (a) if the place is in a British possession, for the Governor of that possession, or any person authorised by the Governor for the purpose; and
- (b) if the place is elsewhere, for the British Consular Officer there;

to forward the passenger to his intended destination, unless the master of the ship, within forty-eight hours of the arrival of the passenger, gives to the Governor or Consular Officer, as the case may be, a written undertaking to forward or convey within six weeks thereafter the passenger to his original destination, and forwards or conveys him accordingly within that period.

(2) A passenger so forwarded by, or by the authority of, a Governor or a British Consular Officer shall not be entitled under this Part of this Act to the return of his passage money, or to any compensation for loss of passage.

334. (1) All expenses incurred under this Part of this Act by, or by the authority of, a Secretary of State, Governor of a British possession, or Consular Officer, in respect of a wrecked passenger, or forwarding of a passenger to his destination, including the cost of maintaining the passenger, until forwarded to his destination, and of all necessary bedding, provisions, and stores, shall be a joint and several debt to the Crown from the owner, charterer, and master of the ship on board of which the passenger had embarked.

Recovery of
expenses
incurred in
conveying
wrecked
passengers
and forward-
ing passen-
gers.

(2) In any proceeding for the recovery of that debt, a certificate purporting to be under the hand of a Secretary of State

State, Governor, or Consular Officer, and stating the circumstances of the case, and the total amount of the expenses, shall be admissible in evidence in manner provided by this Act, and shall be sufficient evidence of the amount of the expenses, and of the fact that the same were duly incurred, unless the defendant specially pleads and duly proves that the certificate is false and fraudulent, or that the expenses were not duly incurred under this Act.

(3) The sum recovered on account of the expenses shall not exceed twice the total amount of passage money which the owner, charterer, or master of the emigrant ship proves to have been received by him or on his account, or to be due to and recoverable by him or on his account in respect of the whole number of passengers, whether cabin or steerage who embarked in the ship.

Validity of insurance of passage money.

335. A policy of assurance effected in respect of any steerage passage or compensation money by any person by this Part of this Act made liable, in the events aforesaid, to provide such passage or to pay such money, or in respect of any other risk under this Part of this Act, shall not be invalid by reason of the nature of the risk or interest sought to be covered by the policy of assurance.

PART II.

FORM OF GOVERNOR'S OR CONSUL'S CERTIFICATE OF EXPENDITURE IN THE CASE OF PASSENGERS SHIPWRECKED, ETC.

(See applied section 334 above.)

I hereby certify that, acting under, and in conformity with, the provisions of Part III of the Indian Merchant Shipping Act, 1923, I have defrayed the expenses incurred in rescuing, maintaining, supplying with necessary bedding,

(a) *N.B.*—1. If more passengers were rescued than forwarded, or if bedding, etc., was not supplied, alter the certificate to suit the facts of the case.

(b) *N.B.*—2. Omit words in brackets when necessary.

(c) *N.B.*—3. State generally the nature of the disaster and where it occurred. But if the passengers were only left behind without any default of their own, state the fact accordingly.

my hand this

provisions and stores (a), and in forwarding to their destination passengers [including cabin passengers (b),] who were proceeding from to in the passenger-ship which was wrecked at sea, etc. (c).

And I further certify, for the purposes of Part of the said Act, that the total amount of such expenses is , and that such expenses were duly incurred by me under the said Act. Given under day of , 19 .

{ Governor of, etc. (or, as the case may be) His
Britannic Majesty's Consul at

SCHEDULE IV.

SCHEDULE IV.

(See section 279.)

Declaration between the Government of the United Kingdom of Great Britain and Ireland and the Government of the French Republic with reference to the disposal of the proceeds of Wrecks on their respective Coasts.

The Government of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and the Government of the French Republic, desiring to regulate by a new Agreement questions relative to the disposal of the proceeds of wrecks on the coasts of the two States, have agreed to replace the Declaration signed at London on the 16th June, 1879, by the following arrangements:—

ARTICLE I.

When any ship belonging to the subjects of one of the two Contracting States is wrecked or stranded on the coast of the other, the competent local authorities shall, with as little delay as possible, bring the fact to the knowledge of the Consul General, Consul, Vice-Consul or Consular Agent nearest to the spot where the wreck or stranding has taken place.

ARTICLE II.

All operations relative to the salvage of British ships which may be wrecked or stranded on the coasts of France shall be directed by the Consuls General, Consuls, Vice-Consuls or Consular Agents of Great Britain, and reciprocally the French Consuls General, Consuls, Vice-Consuls and Consular Agents shall direct all operations relative to the salvage of ships of their nation wrecked or stranded on the coasts of Great Britain.

ARTICLE III.

If the owners of the ship and cargo, or their duly authorised representatives, shall be present and shall claim it, the Consuls General, Consuls, Vice-Consuls and Consular Agents shall hand over to them the conduct of the salvage operations after requiring the deposit of the ship's papers, as well as the reimbursement of the expenses already defrayed, and a sufficient guarantee for those incurred before the operations were handed over, and which may not have been already settled.

ARTICLE IV.

Indian Merchant Shipping. [ACT XXI

ARTICLE IV.

The intervention of the local authorities shall only take place in the two countries for the purpose of assisting the Consular authority, of maintaining order, of securing the interests of the salvors if they are strangers to the shipwrecked crews, and of assuring the due execution of the arrangements to be carried out for the entry and departure of the merchandise saved.

In the absence, and until the arrival, of the Consuls General, Consuls, Vice-Consuls or Consular Agents, the local authorities shall, moreover, take all necessary measures for the protection of the persons and for the preservation of the articles which shall have been saved from the wreck.

This intervention shall not give rise to any charges, with the exception of those which the salvage operations and the protection of the articles saved shall have rendered necessary, and those to which national ships would, under similar circumstances, be liable. These charges shall be paid according to the circumstances of the case, either by the Agents of the Consular service, or by their owners or their proxies.

In case absence, sickness or any other cause should prevent the Agents of the Consular service from seeing to the operations and the management of the salvage, the local authorities who may be charged with the operations and management in question shall be bound to remit to the aforesaid Agents the ship's papers and the net proceeds of the ship and the cargo.

ARTICLE V.

The merchandise and articles saved shall not be liable to any customs-duties, unless they are intended for home consumption, in which case they shall pay the same duties as they would have had to pay if they had been imported in national vessels.

ARTICLE VI.

The stipulations of the present Declaration shall be applicable to all the Colonies and foreign possessions of Her Britannic Majesty, excepting to those hereinafter named. that is to say, except to—

India.
The Dominion of Canada.
Newfoundland.
The Cape.
Natal.
New South Wales.

Victoria.
Queensland.
Tasmania.
South Australia.
Western Australia.
New Zealand:

Provided

Provided always that the stipulations of the present Declaration shall be made applicable to any of the above-named Colonies or foreign possessions on whose behalf notice to that effect shall have been given by Her Britannic Majesty's Representative to the French Republic within one year from the date of the signature of the present Declaration.

The stipulations of the present Declaration shall be applicable to all the Colonies and foreign possessions of France.

ARTICLE VII.

The present Declaration shall come into operation three months after the date of its signature, and shall remain in force until the expiration of one year from the day on which either Party may give notice of its intention to terminate it.

In witness whereof, the undersigned Plenipotentiaries, His Excellency the Earl of Lytton, Ambassador of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Excellency M. Eugène Spuller, Minister for Foreign Affairs, have signed the present Declaration, and have affixed thereto their seals.

Done at Paris, this twenty-third day of October, 1889.

(L. S.) LYTTON.

(L. S.) E. SPULLER.

SCHEDULE V.

(See section 296.)

ENACTMENTS REPEALED.

1	2	3	4
Year.	Number.	Subject or title.	Extent of repeal.
1850	XIX	The Apprentices Act, 1850.	Sections 5 and 7 so far as they have not been repealed. In section 10, the words "or, if the apprentice is bound to the sea service, in the office of the person appointed under Act X, 1841, to make registry of ships at the port where the apprentice is to begin his service" and the words "or registering officer." In sections 11, 12, and 20, the words "or registering officer".
1859	I	The Indian Merchant Shipping Act, 1859.	The whole so far as it has not been repealed.

Indian Merchant Shipping. [ACT XXI

1	2	3	4
Year.	Number.	Subject or title.	Extent of repeal.
1874	XV	The Laws Local Extent Act, 1874.	So much of the First Schedule as relates to Act I of 1859.
1876	XIII	The Indian Merchant Seamen's Act, 1876.	The whole.
1880	VII	The Indian Merchant Shipping Act, 1880.	The whole so far as it has not been repealed.
1883	V	The Indian Merchant Shipping Act, 1883.	The whole except section 38,
1884	VII	The Indian Steamships Act, 1884.	The whole so far as it has not been repealed.
1887	X	The Native Passenger Ships Act, 1887.	The whole.
1890	III	The Indian Steamships Law Amendment Act, 1890.	The whole so far as it has not been repealed.
1891	VI	The Indian Merchant Shipping Law Amendment Act, 1891.	The whole so far as it has not been repealed.
1891	XII	The Amending Act, 1891.	So much of the Second Schedule as relates to the Indian Merchant Seamen's Act, 1876, the Indian Merchant Shipping Act, 1880, the Indian Merchant Shipping Act, 1883, and the Indian Steamships Law Amendment Act, 1890.
1891	XVII	The Deck and Load Lines Act, 1891.	The whole.
1895	XIV	The Pilgrim Ships Act, 1895.	The whole.
1897	XIV	The Indian Short Titles Act, 1897.	So much of the Schedule as relates to the Indian Merchant Shipping Act, 1859, the Indian Steamships Law Amendment Act, 1890, and the Indian Merchant Shipping Law Amendment Act, 1891.
1900	VI	The Lower Burma Courts Act, 1900.	So much of the Second Schedule as relates to the Indian Merchant Shipping Act, 1883.
1902	III	The Indian Steamships (Amending and Validation) Act, 1902.	Section 3.
1906	VI	The Indian Merchant Shipping (Amendment) Act, 1906.	The whole.
1908	XVIII	The Indian Merchant Shipping (Amendment) Act, 1908.	The whole.
1909	I	The Indian Steamships Law Amendment Act, 1909.	The whole so far as it has not been repealed.
1914	IV	The Decentralisation Act, 1914.	So much of the Schedule, Part I, as relates to the Pilgrim Ships Act, 1895.

OF 1923.] *Indian Merchant Shipping.*

1	2	3	4
Year.	Number.	Subject or title.	Extent of repeal.
1914	X	The Repealing and Amending Act, 1914.	So much of the Second Schedule as relates to the Indian Merchant Shipping Act, 1859, the Indian Merchant Seamen's Act, 1876, the Indian Steam-ships Act, 1884, and the Deck and Load Lines Act, 1891.
1917	I	The Inland Steam-vessels Act, 1917.	So much of Schedule II as relates to the Inland Steam-ships Law Amendment Act, 1890, and the Indian Steam-ships Law Amendment Act, 1909.
1919	XXV	The Indian Merchant Shipping Law (Amendment) Act, 1919.	The whole.
1920	I	The Indian Steam-ships (Amendment) Act, 1920.	The whole.
1920	XXXVIII	The Devolution Act, 1920.	So much of the First Schedule as relates to the Indian Merchant Shipping Act, 1880, the Indian Steamships Act, 1884, and the Native Passenger Ships Act, 1887.
1920	XLI	The Indian Wireless Telegraphy (Shipping) Act, 1920.	The whole.

CALCUTTA
SUPERINTENDENT GOVERNMENT PRINTING, INDIA
8, HASTINGS STREET

ACT No. XXII OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 2nd April, 1923.)

An Act to declare the law in force in certain territories of the district of Sambalpur and to provide that the past administration of those territories shall not be called in question on the ground that they were not included in the territories administered by the Government of the Central Provinces.

WHEREAS by Proclamation published under Notification No. 2833, dated the first day of September, 1905, the Governor General in Council was pleased to declare and appoint that, with effect from the sixteenth day of October, 1905, the district of Sambalpur (except the Chandarpur-Padampur Zamindari and the Phuljhar Zamindari) which then formed part of the Central Provinces, should cease to form part of those Provinces and should be included within the limits of the Bengal Division of the Presidency of Fort William; and

WHEREAS by Proclamation published under Notification No. 289, dated the twenty-second day of March, 1912, the Governor General in Council, with the sanction of His Majesty, was pleased to constitute certain territories, including the said district of Sambalpur, a province under the name of the Province of Bihar and Orissa; and

WHEREAS it has appeared that by the above mentioned Proclamations certain territories were included within the Presidency of Fort William in Bengal and thereafter within the Province of Bihar and Orissa which territories have nevertheless continued to be administered in all respects as if they had continued to be included in the Central Provinces; and

Malkharoda and Gaontia Villages Laws. [ACT XXII

WHEREAS the Governor General in Council has, by Notification No. F.-950 (Public), dated the eighth day of March, 1923, and made under section 60 of the Government of India Act with the approval of the Secretary of State for India in Council, been pleased to declare and appoint that the said territories shall again be included in the Central Provinces; and

WHEREAS it is expedient to declare the law which shall be applicable to the said territories and to provide that nothing done by any authority, executive or judicial, in, for or in relation to the said territories since the sixteenth day of October, 1905, shall be brought in question on the ground that the said territories did not form part of the Central Provinces; and to transfer the said territories from the jurisdiction of the High Court of Judicature at Patna to the jurisdiction of the Court of the Judicial Commissioner of the Central Provinces; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Malkharoda and Gaontia Villages Laws Act, 1923.

Declaration of law in force in the said territories.

2. Notwithstanding anything contained in the Bengal, Bihar and Orissa and Assam Laws Act, 1912, the territories specified in the Schedule (hereinafter referred to as the said territories) shall not be deemed to be included within the Province of Bihar and Orissa and nothing in that Act shall be deemed to be applicable to the said territories; but all enactments made by any authority in British India, and all notifications, orders, schemes, rules, forms and bye-laws issued, made or prescribed under such enactments, which immediately before the commencement of this Act were in force in the Central Provinces and would have been in force in the said territories if they had been part of the Bilaspur district of the Central Provinces shall be in force in the said territories.

VII of 1912.

Transference of said territories to the jurisdiction of the Court of Judicial Commissioner.

3. On and from the commencement of this Act, the High Court of Judicature at Patna shall cease to exercise within the said territories the jurisdiction and powers which the said High Court exercises

from

C. P. Act I
of 1917.

from time to time within the limits of the places for which the said High Court was established; and the said territories are hereby declared for all the purposes of the Central Provinces Courts Act, 1917, to form part of the territories to which that Act extends.

4. No suit or other legal proceeding whatsoever, whether civil or criminal, shall lie against any officer of the Government or against any person acting under the orders of any such officer for or on account of or in respect of any act, matter or thing ordered or done in or in relation to the said territories on the ground that the said territories were not, at the time at which such act, matter or thing was so ordered or done, included in the Central Provinces or that the law in force in the said territories was not at such time the law in force in the said Provinces, but was the law in force in the Sambalpur district of the Bengal Division of the Presidency of Fort William in Bengal or in the Sambalpur District of the Province of Bihar and Orissa.

5. No Court or authority, whether civil, criminal or revenue shall entertain any suit, claim, appeal or application whatsoever for the re-trial of any suit or case tried by any Court in the Central Provinces, or shall reverse, annul, amend, declare invalid, or refuse to give effect to, anything done by any such Court or by any authority whatsoever established in the Central Provinces, or shall annul, amend, declare invalid, or refuse to give effect to, any notification, order, rule, bye-law, instrument or document whatsoever, merely on the ground that at the time at which such suit or case was tried, or such thing was done, or such notification, order, rule, bye-law, instrument or document was issued, made or executed, the said territories were not included in the Central Provinces or that the law in the said territories was not at such time the law for the time being in force in the Central Provinces, but was the law for the time being in force in the Sambalpur district of the Bengal Division of the Presidency of Fort William in Bengal or in the Sambalpur district of the Province of Bihar and Orissa.

THE SCHEDULE.

Malkharoda and Gaontia Villages
Laws. [ACT XXII OF 1923.]

THE SCHEDULE.

(SEE SECTION 2.)

Malkharoda Jagir.

Serial Number.	Name of Village.	Settlement Number.	Patwari Circle.	Total area of the village in acres.
1	Ameradih	1190	262	402 80
2	Kurda	1278	261	1376 39
3	Kurdi	1279	261	323 65
4	Kalmi	1249	263	1041 14
5	Charpara	1392	263	639 77
6	Chhapora	1418	261	1385 13
7	Dongridhi	1479	261	335 87
8	Nuagaon	1553	262	832 88
9	Pirdha	1606	261	1469 92
10	Pihirid	1608	262	1776 70
11	Bardhata	1663	261	244 90
12	Birbhata	1687	263	362 73
13	Bhatora	1722	262	830 96
14	Mohtara	1797	262	809 21
15	Malkharoda	1770	263	1445 48
16	Mukta	1776	263	901 72
17	Sipat (Bad)	1872	261	1871 96
18	Sipat (San)	1873	262	618 53
19	Sarasdol	1866	262	581 78
20	Senduras	1893	262	1364 35
	TOTAL .	...	...	18315 87

Gaontia Villages.

Serial Number.	Name of Village.	Settlement Number.	Patwari Circle.	Total area of the village in acres.
1	Kuhakunda	1287	284	616 57
2	Chharra	1419	278	665 85
3	Jogni	1441	287	701 09
4	Thakurpali	1466	287	149 48
5	Panchpurgia	1570	287	38 27
6	Panchpurgia	1571	282	24 10
7	Brahmapura	1664	285	63 41
8	Badimal	1675	284	1233 92
9	Mahadebpali	1761	280	205 58
	TOTAL .	...	...	3698 27

ACT No. XXIII OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 2nd April, 1923.)

An Act for the removal of doubts regarding the right of women to be enrolled and to practise as legal practitioners.

WHEREAS it is expedient to remove certain doubts which have arisen as to the right of women to be enrolled and to practise as legal practitioners; It is hereby enacted as follows :—

1. (1) This Act may be called the Legal Practitioners (Women) Act, 1923. Short title and extent.

(2) It extends to the whole of British India, including British Baluchistan and the Santhal Parganas.

2. In this Act, “legal practitioner” means a legal practitioner as defined in section 3 of the Legal Practitioners Act, 1879. Definition.

XVIII of
1879.

3. Notwithstanding anything contained in any enactment in force in British India or in the letters patent of any High Court or in any rule or order made under or in pursuance of any such enactment or letters patent, no woman shall, by reason only of her sex, be disqualified from being admitted or enrolled as a legal practitioner or from practising as such; and any such rule or order which is repugnant to the provisions of this Act shall, to the extent of such repugnancy, be void. Women not to be disqualified by reason only of sex.

ACT NO. XXIV OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 19th July, 1923.)

An Act to provide for the forfeiture of the estates and other property of Mahendra Partab Singh and for their grant to his son, subject to certain conditions.

WHEREAS Mahendra Partab Singh, formerly a resident of Hathras in the District of Aligarh in the United Provinces, son of the late Raja Ghansham Singh Bahadur and adopted son of the late Raja Har Narayan Singh, did treasonably ally himself with and assist His Majesty's enemies in the late war and is now a fugitive from justice; and

III of 1818. **W**HEREAS the estates of the said Mahendra Partab Singh have been and are now attached under the provisions of the Bengal State Prisoners Regulation, 1818; and

WHEREAS the said Mahendra Partab Singh was, at the date of the attachment, possessed of certain moveable property and other such property has been acquired since the said attachment; and

WHEREAS it is expedient for the purpose of the proper administration of the said estates and property and for preventing the use of the same or the income thereof in a manner prejudicial to the safety and good government of British India that all the right, title, interest, claim and demand of the said Mahendra Partab Singh in the said estates and property should be forfeited and thereafter be transferred to his son, Prem Partab Singh, subject nevertheless to certain conditions; It is hereby enacted as follows :—

1. This Act may be called the Mahendra Partab Short title Singh Estates Act, 1923.

2. With

Forfeiture of
the property
of Mahendra
Partab Singh.

2. With effect from the commencement of this Act, the whole of the estate, right, title, interest, claim and demand whatsoever of the said Mahendra Partab Singh in, to or upon the property specified in the Schedule and in, to or upon any other immoveable or moveable property of whatever description in British India, and in, to or upon all liberties, privileges, benefits, easements and appurtenances whatsoever belonging or in anywise appertaining thereto or usually held or enjoyed therewith (all which estate, right, title, interest, claim and demand is hereinafter referred to as the property) shall absolutely cease and be extinguished, and thereupon the property shall become vested in His Majesty.

Grant of the
property to
son of late
owner.

3. The Governor General in Council, as soon as may be after the commencement of this Act, shall grant the property to Prem Partab Singh, son of the said Mahendra Partab Singh, subject to such provisions, restrictions, conditions and limitations over as he may think fit.

THE SCHEDULE.

(See section 2.)

PART I.

IMMOVEABLE PROPERTY.

A.—Muttra District.

Serial No.	Description of property.	Area or extent.	Revenue and cess		Tahsil
			Rs.	A. P.	
1	Ojham	Whole	1,320	0 0	Chhatu
2	Jatwari	17½ Biswas	2,037	0 0	"
3	Hussani	Whole	2,450	0 0	"
4	Karhari	"	700	0 0	"
5	Khursi	"	495	0 0	"
6	Rampur	"	890	0 0	"
7	Majhori	"	1,000	0 0	"
8	Basai (Shergarh)	"	534	0 0	"

THE SCHEDULE—*contd.**B.—Aligarh District.*

Serial No.	Description of property.	Area or extent.	Revenue and cess.	Tahsil.
1	Qasba Koil property—			
	(a) Patti Khalsa	Bdg. Bds. Bisi. 1,073 13 17	Rs. A. P. 1,291 7 11	Koil.
	(b) Miscellaneous property	1 4 2	0 5 10	"
	(c) Patti Muafi Munzabta	31 7 7	84 10 0	"
	(d) Patti for Dargah expenses	0 8 0	{The cesses are— (d) 0 2 5 (e) 0 0 11 (f) 1 6 5 (g) Nil.	"
	(e) Muafi Kam-az-dah bigha	0 2 19 and 10 Kachwansis.		
	(f) Patti Muafi Dawam	4 15 0		
	(g) Block No. 16	7 3 0		
	(h) Chawni Dayaram Mazra Mauza Gambhirpura	51 5 0	Rent roll . 24 0 0	"
			12 4 10	"

				Cess	Rent roll	Revenue	Cesses	Iglas.
2	Tochigarh Mohal Ghairkhwashtagan (Muafi)	.	.	83 4 0				12 0 0
3	Patti Sanwant (Whole village)	.	.	384 17 0				1,260 8 0
								Hafthras.
4	Sokhana . . . . .	.	.	25 12 0				5 8 0
5	Garhi Kandhari . . . . .	.	.	16 11 0				2 6 4
6	Bala Patti Sheikh Jafar . . . . .	.	.	9 9 0				4 5 2
7	Garhi Garab . . . . .	.	.	4 3 0				0 5 5
	(Muafi) . . . . .	.	.			
8	Garden in Qasba Hathras situated in different mahals as below :—							
	(a) Mahal 15 biswa . . . . .	.	.	124 13 0				15 14 5
	(b) Mahal 5 biswa . . . . .	.	.	65 5 0				13 4 5
	(c) Mahal 5 biswa (mortgagor rights)	.	.	10 19 16				32 2 4

THE SCHEDULE—*contd.*C.—*Koel Municipality.*

Serial No.	Municipal number (if any) and description of property.	Situation.	BOUNDARIES OF SHOPS.			
			North.	South.	East.	West
1	Shop . . . 80	Under school	Shop of Kunwar Mahendra Pratap Singh	Door and Road . .	Shop of Municipal boundary	Shop of Kunwar Sahib.
2	Do. . . 61	Ditto	School building . .	Ditto	Shop of Kunwar Sahib .	Ditto.
3	Do. . . 62	Ditto	Ditto	Ditto	Ditto	Ditto
4	Do. . . 63	Ditto	Ditto	Ditto	Ditto	Ditto
5	Do. . . 64	Ditto	Ditto	Ditto	Ditto	Ditto
6	Do. . . 65	Ditto	Ditto	Ditto	Ditto	Ditto
7	Do. . . 66	Ditto	Ditto	Ditto	Ditto	Ditto
8	Do. . . 67	Ditto	Ditto	Ditto	Ditto	Ditto.
9	Do. . . 68	Ditto	Ditto	Ditto	Ditto	Ditto
10	Do. . . 69	Ditto	Ditto	Ditto	Ditto	Ditto
11	Do. . . 70	Ditto	Ditto	Ditto	Ditto	Ditto
12	Do. . . 41	Ditto	Ditto	Ditto	Ditto	Ditto
13	Do. . . 40	Ditto	Door and Road . .	School building . .	Ditto	Shop o Banai Dar.
14	Do. . . 39	Ditto	Ditto	Ditto	Shop of Municipal boundary.	Shop of Kunwar Sahib.
15	Do. . . 39	Ditto	Ditto	Ditto	Shop of Kunwar Sahib .	Ditto

16	Do.	.	.	.	Ditto	.	Ditto	.	Ditto	.	Ditto	.	Ditto
17	Do.	.	.	.	Ditto	.	Ditto	.	Ditto	.	Ditto	.	Ditto
18	Do.	.	.	.	Ditto	.	Ditto	.	Ditto	.	Ditto	.	Ditto
19	Do.	.	.	.	Ditto	.	Ditto	.	Ditto	.	Ditto	.	Ditto
20	Do.	.	.	.	Ditto	.	Ditto	.	Ditto	.	Ditto	.	Ditto
21	Do.	.	.	.	Ditto	.	Ditto	.	Ditto	.	Ditto	.	Ditto
22	Do.	.	.	.	Ditto	.	Ditto	.	Ditto	.	Ditto	.	Ditto
23	Do.	.	.	.	Ditto	.	Ditto	.	Ditto	.	Ditto	.	Ditto
24	Do.	.	.	.	Bazar Pathar	.	Shop of Choba Mathura	.	Door and Road	.	Ditto	.	Shop of Jugal Lashor.
25	Do.	.	.	.	Ditto.	.	Shop of Kanhai Lal	.	Ditto	.	Ditto	.	Shop of Gobind Singh
26	Do.	.	.	.	Bazar Kaserath	.	Shop of Pasratha	.	Ditto	.	Shop of Banshi Dhar	.	Shop of Kunwar Sahab.
27	Do.	.	.	.	Ditto	.	Ditto	.	Ditto	.	Shop of Jethi Mal	.	Shop of Irawati Lal
28	Do.	.	.	.	Ditto	.	Ditto	.	Ditto	.	Shop of Bansi	.	Shop of Nand Lal
29	Do.	.	.	.	Bazar Jolhat	.	Shop of Nand Lashone	.	Shop of Basdeo	.	Shop of Babu Nathu Lal	.	Shop of Parvati
30	Do.	.	.	.	Mundi Rai	.	Shop of Nand Lal	.	Door and Road	.	Door and Road	.	Door and Road
31	Do.	.	.	.	Ditto	.	Shop of Kunwar Sahab	.	Ditto	.	Ditto	.	Ditto
32	Do.	.	.	.	Ditto	.	Ditto	.	Shop of Tara Chand	.	Ditto	.	Ditto
33	Do.	.	.	.	Ditto	.	Ditto	.	Shop of Kunwar Sahab	.	Ditto	.	Shop of Nand Lal
34	Do.	.	.	.	Ditto	.	Shop of Jachman Das	.	Ditto	.	Ditto	.	Ditto
35	Do.	.	.	.	Zer Kofwahi	.	Kofwahi	.	Door and Road	.	Shop	.	S op.
36	Do.	.	.	.	Naphai	.	Door and Road	.	House of Kofwahi	.	Shop of Jala Ram	.	Shop of Kunwar Sahab
37	Do.	.	.	.	Ditto	.	Ditto	.	Ditto	.	Ditto	.	Ditto
38	Do.	.	.	.	Ditto	.	Ditto	.	Ditto	.	Shop of Kunwar Sahab	.	Ditto

THE SCHEDULE—contd

C—Kotli Municipality—contd

Serial No	Municipal number (if any) and description of property	Situation	BOUNDARIES OF SHOPS			
			North	South	East	West
39	Shop	Najhai	Door and Road	House of Kothiwala	Shop of Kinnar Sahib	Shop of Pare Lal
40	Do	Ditto	Ditto	House of Furan	Shop of Bhola Nath	Shop of Kunwar Sahib
41	Do	Ditto	Ditto	Shop of Kunwar Sahib	Ditto	Ditto
42	Do	Ditto	Ditto	Ditto	Ditto	Ditto
43	Do	Ditto	Ditto	Ditto	Ditto	Shop of Maudu Sataogi
44	Do	Ditto	Ditto	Ditto	Ditto	Shop of Parmchand
45	Do	Ditto	Ditto	Sial Nagru	Shop of Nathu Ram	Shop of Kinnar Sahib
46	Do	Ditto	Ditto	Ditto	Shop of Jagannath	Ditto
47	Do	Ditto	Shop of Halvachan	Door and Road	Shop of Kunwar Sahib	Shop of Channil Lal
48	Do	Ditto	Ditto	Ditto	Shop of Gobind Ram	Shop of Jagannath
49	Do	Ditto	Ditto	Ditto	Shop of Kunwar Sahib	Shop of Radha Manohar
50	Do	Ditto	Ditto	Ditto	Shop of Hari Prasad	Shop of Kunwar Sahib
51	Do	Halvachana	Shop of Kunwar Sahib	Ditto	Door and Road	Shop of Munna Lal
52	Do	Ditto	Shop of Pare Lal	Shop of Thakur Sahib	Ditto	Ditto
53	Do	Ditto	Door and Road	Well	Shop of Nathu Lal	Street
54	Do	Ditto	Ditto	Shop of Najhai	Shop of Radha Ballabh	Shop of Brahman

53	Do	107	Saym Darwaza	Shop of Kunwar Sahib	Shop of Caneeshu	House of Thakur	Door and Pond
56	Do	106	Ditto	Ditto	Ditto	Ditto	Ditto
57	Do	105	Ditto	Ditto	Ditto	House of Lajpuri Val	Ditto
58	Do	104	Ditto	Ditto	Ditto	House	Ditto
59	Do	43	Ditto	Road Bandarban	Ditto	Door and Pond	House of Budhis
60	Do	44	Ditto	Shop of Kunwar Sahib	Street of Bhakharu	Ditto	Ditto
61	Do	103	Ditto	Ditto	Street	House of Nidhi	Door and Pond
62	Do	20	Gurhari	Ditto	Shop of Lajpuri Val	Door and Pond	House of Nidhi
63	Do	32	Ditto	Shop of Jussal	Shop of Nemi Val	Ditto	Shop of Bhakharu
64	Do	30	Ditto	Shop of Kunwar Sahib	Shop of Lajpuri Val	Ditto	House of Bhakharu
65	Do	19	Ditto	Door and Bhakharu	Shop of Kunwar Sahib	Ditto	Shop of Bhakharu
66	Do	69	Ditto	Shop of Kunwar Sahib	Shop	House of Bhakharu	Door and Pond
67	Do	68	Ditto	Shop of Madan Lal	Shop of Kunwar Sahib	Ditto	Ditto
68	Do	66	Ditto	Shop of Sunar	Shop of Caneeshu	Ditto	Ditto
69	Do	8	Paarthia	Door and Road	Shop of K. L. Pathi	Shop of Caneeshu	Shop of Kunwar Sahib
70	Do	4	Ditto	Ditto	Ditto	Shop of Caneeshu	Shop of Kunwar Sahib
71	Do	12	Ditto	Ditto	Ditto	Shop of Caneeshu	Shop of Kunwar Sahib
72	Do	51	Ditto	House of Darbari Lal	Door and Road	Shop of Caneeshu	Shop of Kunwar Sahib
73	Do	63	Citank Daulat Ram	Door and Road	Temple of Caneeshu	Street	Shop of Kunwar Sahib
74	Do	82	Bazar Chakki	Shop of Gillo Val	Shop of Kunwar Sahib	Kothi of Lajpuri Val	Door and Pond
75	Do	83	Ditto	Shop of Kunwar Sahib	Shop of Lajpuri Val	Ditto	Ditto
76 (a)	Do	Balakhana	Gurhari	Temple of Gangaji	Shop of Lajpuri Val	Door and Road	Shop of Bhakharu
76	Do	3	Zar Kotwali	Door and Road	House of Bhakharu	Shop of Caneeshu	Shop of Bhakharu

THE SCHEDULE—*contd.*

C.—*Koal Municipality—concl.*

Serial No.	Municipal number (if any) and description of property.	Situation.	BOUNDARIES OF SHOPS.			
			North.	South.	East.	West.
76 (a)	Shop . . . Balakhana	Najhal	Street	Balakhana	Door and Road	House of Buddha.
77	Do. . . . 40	Lohat	Shop of Kunwar Sahib	Shop of Moti Ram	Ditto	Shop of Debi Sahae.
78	Do. . . . 39	Ditto	Shop of Janna Sahae	Ditto	Ditto	Shop of Ruti Mandi.
79	Madrassa	Bazar Patthar	Bazar Pasraha	Bazar Patthar	Municipal Well	House of Dhanpat Rae.

D.—*Koal Tahsil.*

Serial No.	Municipal number (if any) and description of property.	Situation.	BOUNDARIES.			
			North.	South.	East.	West.
1	Serai of Lahruyan of 60 houses.	Mohalla Ghuriaabagh	Field of Haji Chand	Field of Ganga Sahai	Field of Haji Chand	Public Road.
2	Serai Intizam Ali of 13 houses.	Mohalla Madar Darwaza	Flour Mill of Tika Ram	House of Xannu Bhatia- ra. . . .	Public Road	House of Khwaj Bakhsh Bhatlara.
3	Do. 1 house	Ditto	House of Tika Ram	Ditto	Ditto	Ditto.

4	Do. 1 house	Do.	Ditto	Ditto	Ditto	Ditto	Ditto
5	Shop	Sarai Intizam Ali	Sarai Intizam Ali	Road	Shop of Babu Lal	Shop of B. Anna Lal	
6	Do.	Bahae Kila	House of Weaveis	Do.	Shop of Mania Dad Khan	Shop of Jahansir	
7	Ahata (enclosure)	Madar Darwaza	Flour Mill of Tika Ram	House of Kana Bhatiana	House of Khwaj Baksh	Road	
8	Proprietary rights of the land on which public latrines are situated in Mohalla Khirni Darwaza.						
9	Proprietary rights of the house of Babu Maluk Chand in Mohalla Sarai Rahman.						
10	Proprietary rights of the land on which the workshop of ant is situated in Banna Iehi.						

E.—Dehra Dun.

Serial No.	Name of mauza.	Pargana.	Khasra No.	Area in acres.	Name of houses.	Municipal No.	House rent yearly accruing.	AMOUNT PAID ON ACCOUNT OF		Municipal tax.	Boundaries.
								Land Revenue.	Rent.		
1	2	3	4	5	6	7	8	9	10	11	12
1	Karanpur khas	Western Dun	158 159 160 161	2-47 -14 -16 -78	Dikhusha	44 Rajpur Road, Dehra Dun.	Rs. 1,080	Rs. A. P. 16 6 9	Rs. A. P. ..	Rs. A. P. ..	North . Kotli Inverness, South . House of Mr. T. G. V. East . Canal West . Mauza Salawala.
2	Ditto	Ditto	4 157	3-55 2-24	Inverness	43 Rajpur Road, Dehra Dun.	600	16 6 9	..	..	North . Chanch and Kothli Bawa. South . Kotli Dikhusha. East . Canal West . Mauza Salawala.

THE SCHEDULE—contd.

E.—Dehra Dun—contd.

Serial No.	Name of mauza.	Pargana.	Khasra No.	Area in acres	Name of houses.	Municipal No.	House rent yearly accruing	AMOUNT PAID ON ACCOUNT OF		Municipal tax.	Boundaries.
								Land Revenue.	Rent.		
1	2	3	4	5	6	7	8	9	10	11	12
							Rs.	Rs. A. P.	Rs. A. P.	Rs. A. P.	
3	Karanpur khas	Western Dun .	147 148 149 150 151 152	.44 -03 -73 08 30 -03	Daya or Pargana sonage.	42 Rajpur Road, Dehra Dun.	840	16 6 9	..	..	North . Kothi Dharma. South . Kothi Inveness. East . Church West . Mauza Salawala.
4	Ditto .	Ditto .	6 141 142 143 144 145 146 254 162	1 61 -03 -12 -11 1 04 -38 -02 46 1 78	Dharma or Church side.	41 Rajpur Road, Dehra Dun	840	16 6 9	..	..	North . Footpath. South . Church. East . Canal. West . Mauza Salawala.
5	Dhak patli .	Western Dun .	8 885 884 887 892 893	3 95 -23 -16 24 -05 -84	Ellenborough Hotel, Rajpur	..	2,400	..	11 15 6	48 0 0	North . Chapman's hotel. South . Land belonging to Lala Muf- saddi Lal. East . Ruzpaina river.

OF 1923.] *Mahendra Partab Singh Estates.*

West . R.ijour roal.
Occupancy rights of the
first 19 Plots Nos.
885—907 and non-occu-
pancy of the last seven
numbers

808	12
894	02
897	02
895	04
896	01
899	02
900	14
901	01
902	08
903	02
904	07
905	01
906	10
907	31
19	2 49
883	41
877	2 16
878	02
879	75
880	01
881	24
882	03
7	3 62

12 4 0

THE SCHEDULE—*concl'd.*

PART II.

MOVEABLE PROPERTY.

Serial No.	Nature of securities.	Face value	Price paid.	Date of purchase.	In whose possession the securities, scripps, certificate, deeds, etc., are
		Rs	Rs A. P		
1	Post Office Cash Certificates payable on 27th September 1923, viz.— Rs. Nos A D.-003471 to A.D.-008480 for Rs. 500 each . . . 5,000 Nos. A.B.-005789 to A.B.-005790 for Rs. 500 each . . . 1,000 U 045222 to U 045225 of Rs. 100 each 400 N.1725 50 6,450	6,450	4,998 12 0	27th September 1918 .	Collector, Muttra.
2	6 per cent. United Provinces Bonds, Nos C-004640 to C-004648 for Rs. 1,000 each B.-000910 to B.-000912 for Rs. 500 each A.-004378 to A.-004379 for Rs. 100 each, dated the 15th November 1921, 5 per cent. War Loan 1921—1947, No. 013192 . Inscribed stock No. 742 of 5 per cent. War Loan 1929—1947	10,700 7,350 4,200	9,951 0 0 10,973 0 0	18th October 1921 15th August 1917 . 10th October 1917 .	Collector, Muttra Collector, Aligarh Public Debt Office

5	Inscribed stock No 1753 of 5 per cent. War Loan, 1923-1947	1,500	..	10th April 1920 . . .	Ditto
6	5½ per cent War Bond, 1923	2,000	..	11th November 1920 . .	Assistant Accountant-General, Posts and Telegraphs, Calcutta State custody receipt No PDD/284, dated 11th October 1920
7	6 per cent United Provinces Bonds for Rs 1,000 each, Nos. C-004358 and C-004359 dated Post Office Cash Certificates payable in 1924— Rs No T-037910 50 No Y-017967 100 No, A B-047074 500 650	2,000 650	£ 1,860 0 0 503 12 0	15th November 1921 15th November 1919 . .	Collector, Aligarh Collector, ditto.
8	5½ per cent War Loan 1923-1947, No. 018030	1,000	950 0 0	1917	Superintendent, Dehra Dun.
9	Post Office Cash Certificates payable on 12th September 1923— T 1 of Rs 10—No 4 09103 1 of Rs. 20—No K. 090543. 4 of Rs 100 each Nos X-088192 to 088195 3 of Rs. 500 each Nos A D-008368 to A D 008870	1,930	1,496 0 0	12th September 1918	Ditto

CALCUTTA
SUPERINTENDENT GOVERNMENT PRINTING, INDIA
8, HASTINGS STREET

ACT NO. XXV OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the
25th July, 1923.)*

An Act to modify certain provisions of the
Indenture confirmed by the Moorshedabad
Act, 1891.

f 1891. **W**HEREAS it is expedient to modify certain provisions of the Indenture confirmed by the Moorshedabad Act, 1891; It is hereby enacted as follows:—

1. This Act may be called the Moorshedabad Short title,
(Amendment) Act, 1923.

f 1891. 2. The provisions of the Indenture set out in the Modification
Schedule to the Moorshedabad Act, 1891, of Indenture. which provide that the Nawab Bahadur of Moorshedabad shall not, nor shall any of his successors, sell, mortgage, devise or alienate certain properties referred to in the said Indenture respectively or any of them otherwise than by lease or demise for a term not exceeding twenty-one years and under a rent without bonus or salamee shall have effect as if for the words “for a term not exceeding twenty-one years and under a rent without bonus or salamee” the following words were substituted, namely:—

“ the terms and conditions of which have been
previously approved by the Governor of
Bengal in Council ” :

Provided that nothing herein contained shall affect anything done, or any right or liability which has accrued or been incurred, under any such lease or demise before the commencement of this Act.

ACT No. XXVI OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the
25th July, 1923.)*

An Act further to amend the Code of Civil
Procedure, 1908, for certain purposes.

v of 1908.

WHEREAS it is expedient further to amend the
Code of Civil Procedure, 1908, for certain
purposes hereinafter appearing; It is hereby enacted
as follows :—

1. This Act may be called the Code of Civil Short title.
Procedure (Amendment) Act, 1923.

v of 1908.

2. In clause (2) of sub-section (1) of section 60 Amendment
of section 60,
Act V of
1908.
of the Code of Civil Procedure, 1908, for the word
“twenty”, wherever it occurs, the word “forty”,
and for the word “forty” the word “eighty”, shall
be substituted.

ACT No. XXVII OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the
25th July, 1923.)*

An Act further to amend the Indian Income-tax Act, 1922, for certain purposes.

1922. **W**HEREAS it is expedient further to amend the Indian Income-tax Act, 1922, for certain purposes hereinafter appearing; It is hereby enacted as follows :—

1. This Act may be called the Indian Income-tax (Further Amendment) Act, 1923. Short title.

1922. 2. In sub-section (2) of section 4 of the Indian Income-tax Act, 1922 (hereinafter referred to as the said Act), for the words “ shall be deemed to be profits and gains of the year in which they are received or brought into British India,” the following words shall be substituted, namely :—

“ shall, if they are received in or brought into British India, be deemed to have accrued or arisen in British India and to be profits and gains of the year in which they are so received or brought.”

3. After Chapter V of the said Act the following Chapter shall be inserted, namely :— Insertion of new Chapter VA in Act XI of 1922.

“ CHAPTER VA.

SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES OF SHIPPING.

44A. The provisions of this Chapter shall, notwithstanding anything contained in the other provisions of this Act, apply for the purpose of the levy and recovery of tax in the case of any person who resides out of British India and carries on business in British India in any year as the owner or charterer of a ship (such person hereinafter in this Chapter being referred to as the principal), unless the Income-tax Officer is satisfied that there is an

agent

Indian Income-tax [ACT XXVII OF 1923.]
(*Further Amendment*).

agent of such principal from whom the tax will be recoverable in the following year under the other provisions of this Act.

Return of
profits and
gains.

44B. (1) Before the departure from any port in British India of any ship in respect of which the provisions of this Chapter apply, the master of the ship shall prepare and furnish to the Income-tax Officer a return of the full amount paid or payable to the principal, or to any person on his behalf, on account of the carriage of all passengers, live-stock or goods shipped at that port since the last arrival of the ship thereat.

(2) On receipt of the return, the Income-tax Officer shall assess the amount referred to in subsection (1), and for this purpose may call for such accounts or documents as he may require, and one-twentieth of the amount so assessed shall be deemed to be the amount of the profits and gains accruing to the principal on account of the carriage of the passengers, live-stock and goods shipped at the port.

(3) When the profits and gains have been assessed as aforesaid, the Income-tax Officer shall determine the sum payable as tax thereon at the rate for the time being applicable to the total income of a company, and such sum shall be payable by the master of the ship, and a port-clearance shall not be granted to the ship until the Customs-collector, or other officer duly authorised to grant the same, is satisfied that the tax has been duly paid.

Adjustment.

44C. Nothing in this Chapter shall be deemed to prevent a principal from claiming, in any year following that in which any payment has been made on his behalf under this Chapter, that an assessment be made of his total income in the previous year, and that the tax payable on the basis thereof be determined in accordance with the other provisions of this Act, and, if he so claims, any such payment as aforesaid shall be treated as a payment in advance of the tax and the difference between the sum so paid, and the amount of tax found payable by him shall be paid by him or refunded to him, as the case may be."

ACT No. XXVIII OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the
25th July, 1923.)*

An Act to repeal the Acts which provide for
the levy of a cess on indigo exported from
British India.

WHEREAS it is expedient to repeal the Acts
which provide for the levy of a cess on indigo
exported from British India; It is hereby enacted
as follows :—

1. (1) This Act may be called the Indigo Cess Short title
and com-
mencement.
(Repealing) Act, 1923.

(2) It shall come into force on the first day of
August, 1923.

III of 1918. 2. The Indigo Cess Act, 1918, and the Indigo Repeal.
V of 1921. Cess (Amendment) Act, 1921, are hereby repealed.

ACT No. XXIX of 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 27th July, 1923.)

An Act further to amend the Code of Civil Procedure, 1908.

V of 1908.

WHEREAS it is expedient further to amend the Code of Civil Procedure, 1908; It is hereby enacted as follows:—

1. This Act may be called the Code of Civil Procedure (Amendment) Act, 1923. Short title.

V of 1908.

2. In sub-rule (1) of rule 32 of Order XXI in the First Schedule to the Code of Civil Procedure, 1908 (hereinafter referred to as the said Order), after the word “enforced” the following shall be inserted, namely:— Amendment of rule 32 of Order XXI in Schedule I, Act V of 1908.

“ in the case of a decree for restitution of conjugal rights by the attachment of his property or, in the case of a decree for the specific performance of a contract or for an injunction ”.

3. In rule 33 of the said Order,—

(a) in sub-rule (1), after the words “passing a decree” the words “against a husband” shall be inserted, and for the words “shall not be executed by detention in prison” the words “shall be executed in the manner provided in this rule” shall be substituted; and Amendment of rule 33 of Order XXI in Schedule I, Act V of 1908.

(b) in sub-rule (2), the words “and the decree-holder is the wife” shall be omitted.

[Price one anna.]

ACT No. XXX OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the
30th July, 1923.)*

An Act further to amend the Special Marriage Act, 1872.

872. **WHEREAS** it is expedient further to amend the Special Marriage Act, 1872; It is hereby enacted as follows:—

1. This Act may be called the Special Marriage Short title.
(Amendment) Act, 1923.

872.* 2. In the preamble to the Special Marriage Act, Amendment of preamble, Act III of 1872.
1872. (hereinafter referred to as the said Act), after the words “ Jaina religion ” the following words shall be inserted, namely:—

“ and for persons who profess the Hindu, Buddhist, Sikh or Jaina religion ”.

3. In section 2 of the said Act, after the words Amendment of section 2. Act III of 1872.
“ Jaina religion ” the following words shall be inserted, namely:—

“ or between persons each of whom professes one or other of the following religions, that is to say, the Hindu, Buddhist, Sikh or Jaina religion ”.

4. After section 21 of the said Act the following Addition of new sections to Act III of 1872.
sections shall be inserted, namely:—

“ 22. The marriage under this Act of any member of an undivided family who professes the Hindu, Buddhist, Sikh or Jaina religion shall be deemed to effect his severance from such family. Effect of certain marriages on coparcenary. ”

Special Marriage (Amendment). [ACT XXX OF 1923.]

Rights of
succession in
certain cases
of marriage
under Act.

23. A person professing the Hindu, Buddhist, Sikh or Jaina religion who marries under this Act shall have the same rights and be subject to the same disabilities in regard to any right of succession to any property as a person to whom the Caste Disabilities Removal Act, 1850, applies :

XXI of 1850.

Provided that nothing in this section shall confer on any person any right to any religious office or service, or to the management of any religious or charitable trust.

Succession
to the pro-
perty of
parties
married
under Act.

24. Succession to the property of any person professing the Hindu, Buddhist, Sikh or Jaina religion who marries under this Act, and to the property of the issue of such marriage, shall be regulated by the provisions of the Indian Succession Act, 1865.

X of 1865.

Person
marrying
under Act
not to have
right of adop-
tion.

25. No person professing the Hindu, Buddhist, Sikh or Jaina religion who marries under this Act shall have any right of adoption.

Adoption
by father of
person
marrying
under Act.

26. When a person professing the Hindu, Buddhist, Sikh or Jaina religion marries under this Act, his father shall, if he has no other son living, have the right to adopt another person as a son under the law to which he is subject."

Amendment
of Second
Schedule to
Act III of
1872.

5. In the Second Schedule to the said Act, after the words " Jaina religion " in both places where they occur, the following shall be inserted, namely :—

" or (as the case may be) I profess the Hindu, or the Buddhist, or the Sikh, or the Jaina religion ".

ACT No. XXXI OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the
31st July, 1923.)*

An Act to amend the Indian Territorial Force Act, 1920, and the Auxiliary Force Act, 1920, for certain purposes.

XLVIII of
1920.
XLIX of
1920

WHEREAS it is expedient to amend the Indian Territorial Force Act, 1920, and the Auxiliary Force Act, 1920, for certain purposes hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Indian Territorial and Auxiliary Forces (Amendment) Act, 1923. Short title.

XLVIII of
1920.

2. To section 11 of the Indian Territorial Force Act, 1920, the following sub-section shall be added, namely:— Amendment of section 11, Act XLVIII of 1920.

VIII of
1911.

“(3) Where an offence punishable under the Indian Army Act, 1911, or, as the case may be, under that Act as modified under sub-section (2), has been committed by any person whilst subject to that Act under the provisions of this section, such person may be taken into and kept in military custody and tried and punished for such offence under that Act, although he has ceased to be so subject as aforesaid, in like manner as he might have been taken into and kept in military custody, tried or punished, if he had continued to be so subject :

Provided that no such person shall be kept in military custody after he has ceased to belong to the Indian Territorial Force, unless he has been taken into or kept in military custody on account of

*Indian Territorial and Auxili- [ACT XXXI OF 1923.]
ary Forces (Amendment).*

of the offence before the date on which he ceased so to belong, nor shall he be kept in military custody or be tried or punished for the offence after the expiry of two months from that date, unless his trial had already commenced before such expiry.”

Amendment
of section
21, Act
XLIX of
1920.

3. Section 21 of the Auxiliary Force Act, 1920, ^{XLIX of 1920.} shall be re-numbered as sub-section (1) of section 21, and to that section as so re-numbered the following sub-section shall be added, namely :—

“(2) Where an offence punishable under the Army Act has been committed by any person whilst subject to that Act under the provisions of sub-section (1), such person may be taken into and kept in military custody and tried and punished for such offence, although he has ceased to be so subject as aforesaid, in like manner as he might have been taken into and kept in military custody, tried or punished if he had continued to be so subject : ^{44 & 45 Vict., c. 58.}

Provided that no such person shall be kept in military custody after he has ceased to belong to the Auxiliary Force, India, unless he has been taken into or kept in military custody on account of the offence before the date on which he ceased so to belong, nor shall he be kept in military custody or be tried or punished for the offence after the expiry of two months from that date, unless his trial had already commenced before such expiry.”

ACT No. XXXII OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the
31st July, 1923.)*

An Act further to amend the Indian Lunacy Act, 1912.

IV of 1912.

WHEREAS it is expedient further to amend the Indian Lunacy Act, 1912; It is hereby enacted as follows :—

1. This Act may be called the Indian Lunacy Short title.
(Amendment) Act, 1923.

IV of 1912.

2. To section 20 of the Indian Lunacy Act, Amendment
of section
20, Act IV
of 1912.
1912, the following proviso shall be added,
namely :—

“ Provided that no reception order shall continue to have effect—

(a) after the expiry of thirty days from the date on which it was made, unless the lunatic has been admitted to the place mentioned therein within that period, or

(b) after the discharge, under the provisions of this Act, of the lunatic from such place or from any asylum to which he may have been removed.”

[Price one anna.]

ACT NO. XXXIII OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the
31st July, 1923.)*

An Act further to amend the Indian Army Act, 1911, and the Indian Lunacy Act, 1912, for certain purposes.

VIII of
1911.
IV of 1912.

WHEREAS it is expedient further to amend the Indian Army Act, 1911, and the Indian Lunacy Act, 1912, for certain purposes hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Indian Army Short title.
(Amendment) Act, 1923.

VIII of
1911.

2. In section 7 of the Indian Army Act, 1911 Amendment
of section
7, Act VIII
of 1911
(hereinafter referred to as the said Act),—

(a) to clause (1) after the words “land forces” the following words shall be added, namely:—

“and includes, in relation to a person subject to this Act when serving under such conditions as may be prescribed, a person holding a commission in His Majesty’s Air Force”; and

(b) in clause (7), after the words “Army Act” the words “or the Air Force Act” shall be added.

3. To section 91A of the said Act the following Amendment
of section
91A, Act
VIII of
1911.
sub-section shall be added, namely:—

“(7) Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner

to

to Government upon any matter or thing duly submitted to him for examination or analysis and report may be used as evidence in any proceeding under this Act."

Insertion
of new sec-
tion 103A in
Act VIII of
1911.

Provision in
the case of
accused being
lunatic

4. In Chapter VIII of the said Act, after section 103 the following section shall be inserted, namely:—

" 103A. (1) Whenever, in the course of a trial by court-martial, it appears to the Court that the person charged is of unsound mind and consequently incapable of making his defence, or that such person committed the act alleged but was by reason of unsoundness of mind incapable of knowing the nature of the act or that it was wrong or contrary to law, the Court shall record a finding accordingly, and the President of the Court or the officer holding the trial, as the case may be, shall forthwith report the case to the confirming officer, or, in the case of a court-martial whose finding does not require confirmation, to the prescribed officer.

(2) A confirming officer to whom a case is reported under sub-section (1) may, if he does not confirm the finding, take steps to have the accused person tried by the same or another court-martial for the offence with which he was originally charged.

(3) A prescribed officer to whom a case is reported under sub-section (1) and a confirming officer confirming a finding in any case so reported to him shall order the accused person to be kept in custody in the prescribed manner, and shall report the case for the orders of the Governor General in Council.

(4) On receipt of a report under sub-section (3), the Governor General in Council may order the accused person to be detained in a lunatic asylum or other suitable place of safe custody.

(5) Where an accused person, having been found by reason of unsoundness of mind to be incapable
of

of making his defence, is in custody or under detention, the prescribed officer may—

- (a) if such person is in custody under sub-section (3), on the report of a medical officer that he is capable of making his defence, or
- (b) if such person is detained under sub-section (4), on a certificate such as is referred to in section 473 of the Code of Criminal Procedure, 1898,

✓ of 1898.

take steps to have such person tried by the same or another court-martial for the offence with which he was originally charged or, provided that the offence is a civil offence, by a Criminal Court.

(6) A copy of every order made by the prescribed officer under sub-section (5) shall forthwith be sent to the Governor General in Council."

IV of 1912

5. In the Indian Lunacy Act, 1912—

Amendment
of sections
3, 24, 30 and
35, Act IV
of 1912.

- (a) to clause (4) of section 3 after the figures " 1900 " the words and figures " or of section 103A of the Indian Army Act, 1911 " shall be added;
- (b) in section 24, after the figures " 1900 " the words and figures " or under section 103A of the Indian Army Act, 1911 " shall be inserted;
- (c) in sub-section (1) of section 30, after the figures " 1898 " the words and figures " or under the provisions of section 103A of the Indian Army Act, 1911 " shall be inserted; and
- (d) in sub-section (2) of section 35, after the figures " 1898 " the words and figures " or under section 103A of the Indian Army Act, 1911 " shall be inserted.

VIII of 1911

ACT NO. XXXIV OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the
31st July, 1923.)*

An Act to amend the Cutchi Memons Act, 1920.

XLVI of
1920.

WHEREAS it is expedient to amend the Cutchi Memons Act, 1920; It is hereby enacted as follows:—

1. This Act may be called the Cutchi Memons Short title.
(Amendment) Act, 1923.

XLVI of
1920.

2. (1) Section 2 of the Cutchi Memons Act, 1920 Amendment
of section 2,
Act XLVI of
1920. (hereinafter referred to as the said Act), shall be re-numbered as sub-section (1) of section 2, and in that sub-section as re-numbered for the words “ Any Cutchi Memon who—

- (a) has attained the age of majority, and
- (b) is resident in British India,”

the following shall be substituted, namely:—

“ Any person who satisfies the prescribed authority—

- (a) that he is a Cutchi Memon and is the person whom he represents himself to be;
- (b) that he is competent to contract within the meaning of section 11 of the Indian Contract Act, 1872; and
- (c) that he is resident in British India,”.

IX of 1872.

(2) To

1

[Price one anna and three pies.]

Cutchi Memons (Amendment). [ACT XXXIV OF 1923.]

(2) To the same section the following sub-section shall be added, namely:—

“(2) Where the prescribed authority refuses to accept a declaration under sub-section (1), the person desiring to make the same may appeal to such officer as the Local Government may, by general or special order, appoint in this behalf, and such officer may, if he is satisfied that the appellant is entitled to make the declaration, order the prescribed authority to accept the same.”

Amendment
of section 3,
Act XLVI of
1920.

3. Sub-section (2) of section 3 of the said Act shall be re-numbered as sub-section (3), and for sub-section (1) of the same section the following sub-sections shall be substituted, namely:—

“(1) The Local Government may make rules to carry into effect the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) for prescribing the authority before whom and the form in which declarations under this Act shall be made;

(b) for prescribing the fees to be paid for the filing of declarations and for the attendance at private residences of any person in the discharge of his duties under this Act; and for prescribing the times at which such fees shall be payable and the manner in which they shall be levied.”

ACT No. XXXV OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the
31st July, 1923.)*

An Act further to amend the Code of Criminal Procedure, 1898.

V of 1898. **W** HEREAS it is expedient to give to mukhtars the right to practise in certain Criminal Courts and further to amend the Code of Criminal Procedure, 1898, for that purpose; It is hereby enacted as follows:—

1. This Act may be called the Code of Criminal Procedure (Further Amendment) Act, 1923. Short title.

V of 1898. 2. In clause (r) of sub-section (1) of section 4 of the Code of Criminal Procedure, 1898, after the words “means a pleader” the words “or a mukhtar” shall be inserted, and the words “mukhtar or” shall be omitted. Amendment of section 4, Act V of 1898.

[*Price one anna.*]

ACT NO. XXXVI OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
3rd August, 1923.)

An Act further to amend the Indian Paper Currency Act, 1923.

X of 1923.

WHEREAS it is expedient further to amend the Indian Paper Currency Act, 1923; It is hereby enacted as follows:—

1. This Act may be called the Indian Paper Currency (Amendment) Act, 1923. Short title.

X of 1923.

2. To clause (a) of sub-section (8) of section 18 of the Indian Paper Currency Act, 1923 (hereinafter referred to as the said Act), after the word “purchased” the following words shall be added, namely:—

Amendment of section 18, Act X of 1923.

“or, in the case of bullion obtained by melting down silver coin issued under the authority of the Governor General in Council, at the rate of one rupee for 165 grains troy of fine silver.”

3. To sub-section (3) of section 19 of the said Act the following *Explanation* shall be added, namely:—

Amendment of section 19, Act X of 1923.

“*Explanation.*—For the purposes of this sub-section, the sum expended in the purchase of silver bullion obtained by melting down silver coin issued under the authority of the Governor General in Council shall be deemed to be the value of the bullion calculated at the rate of one rupee for 165 grains troy of fine silver.”

4. In section 20 of the said Act, for the word “fifty” the words “one hundred and twenty” shall be substituted.

Amendment of section 20, Act X of 1923.

[*Price one anna.*]

ACT No. XXXVII OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the
3rd August, 1923.)*

An Act further to amend the Code of Criminal Procedure, 1898, for certain purposes.

V of 1898.

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898, for certain purposes hereinafter appearing; It is hereby enacted as follows:—

1. (1) This Act may be called the Code of Criminal Procedure (Second Amendment) Act, 1923. Short title and commencement.

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

V of 1898.

2. In section 364 of the Code of Criminal Procedure, 1898 (hereinafter referred to as the said Code),— Amendment of section 364, Act V of 1898.

(a) in sub-section (3) the words “ unless he is a Presidency Magistrate,” shall be omitted; and

(b) in sub-section (4), for the words and figures “ or section 362, sub-section (2A) ” the following shall be substituted, namely:—

“ or in the course of a trial held by a Presidency Magistrate.”

3. For section 388 of the said Code the following section shall be substituted, namely:— Substitution of new section for section 388, Act V of 1898.

“ 388. (1) When an offender has been sentenced to fine only and to imprisonment in default of payment Suspension of execution of sentence of imprisonment.

Code of Criminal Procedure [ACT XXXVII
(*Second Amendment*).

ment of the fine, and the fine is not paid forthwith, the Court may—

(a) order that the fine shall be payable either in full on or before a date not more than thirty days from the date of the order, or in two or three instalments, of which the first shall be payable on or before a date not more than thirty days from the date of the order and the other or others at an interval or at intervals, as the case may be, of not more than thirty days, and

(b) suspend the execution of the sentence of imprisonment and release the offender, on the execution by the offender of a bond, with or without sureties, as the Court thinks fit, conditioned for his appearance before the Court on the date or dates on or before which payment of the fine or the instalments thereof, as the case may be, is to be made; and, if the amount of the fine or of any instalment, as the case may be, is not realised on or before the latest date on which it is payable under the order, the Court may direct the sentence of imprisonment to be carried into execution at once.

(2) The provisions of sub-section (1) shall be applicable also in any case in which an order for the payment of money has been made on non-recovery of which imprisonment may be awarded and the money is not paid forthwith; and, if the person against whom the order has been made, on being required to enter into a bond such as is referred to in that sub-section, fails to do so, the Court may at once pass sentence of imprisonment.”

Amendment
of section
562, Act V
of 1898.

4. After sub-section (1) of section 562 of the said Code, the following sub-section shall be inserted, namely:—

Conviction
and release
with admo-
nition.

“(1A) In any case in which a person is convicted of theft, theft in a building, dishonest misappropriation,

OF 1923] *Code of Criminal Procedure*
(*Second Amendment*).

XLV of
1860.

misappropriation, cheating or any offence under the Indian Penal Code punishable with not more than two years' imprisonment and no previous conviction is proved against him, the Court before whom he is so convicted may, if it thinks fit, having regard to the age, character, antecedents or physical or mental condition of the offender and to the trivial nature of the offence or any extenuating circumstances under which the offence was committed, instead of sentencing him to any punishment, release him after due admonition."

5. In Schedule V to the said Code, in Form Amendment of Schedule V, Act V of 1898.
XXXVIIA,—

- (a) the words "until the day of ,," shall be omitted; and
- (b) for the words "on that day;" and for the words "on the said day of next," and for the words "on the day of next;" the words "on the following date (*or* dates), namely:— " shall be substituted.

XVIII of
1923.

6. Sections 98 and 104 of the Code of Criminal Repeal.
Procedure (Amendment) Act, 1923, are hereby
repealed.

ACT No. XXXVIII OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
5th August, 1923.)

An Act further to amend the Land Acquisition Act, 1894, for certain purposes.

§ 1894. **W**HEREAS it is expedient further to amend the Land Acquisition Act, 1894 for certain purposes hereinafter appearing; It is hereby enacted as follows:—

1. (1) This Act may be called the Land Acquisition (Amendment) Act, 1923. Short title and commencement.

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

§ 1894. 2. In sub-section (1) of section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the said Act), after the word "locality", where it first occurs, the words "is needed or" shall be inserted. Amendment of section 4, Act I of 1894.

3. After section 5 of the said Act the following heading and section shall be inserted, namely:— Insertion of new section 5A in Act I of 1894.

"Objections.

5A. (1) Any person interested in any land which has been notified under section 4, sub-section (1), as being needed or likely to be needed for a public purpose or for a Company may, within thirty days after the issue of the notification, object to the acquisition of the land or of any land in the locality, as the case may be. Hearing of objections.

(2) Every objection under sub-section (1) shall be made to the Collector in writing, and the Collector shall give the objector an opportunity of being heard either

Land Acquisition (Amendment). [ACT XXXVIII

either in person or by pleader and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, submit the case for the decision of the Local Government, together with the record of the proceedings held by him and a report containing his recommendations on the objections. The decision of the Local Government on the objections shall be final.

(3) For the purposes of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land were acquired under this Act."

Amendment
of section 6,
Act I of 1894.

4. In sub-section (1) of section 6 of the said Act, for the words " whenever it appears to the Local Government " the following shall be substituted, namely :—

" when the Local Government is satisfied, after considering the report, if any, made under section 5A, sub-section (2)."

Amendment
of section 11,
Act I of 1894.

5. In section 11 of the said Act, after the words " the value of the land," the words " at the date of the publication of the notification under section 4, sub-section (1) " shall be inserted.

Amendment
of section 17,
Act I of 1894.

6. To section 17 of the said Act the following sub-section shall be added, namely :—

" (4) In the case of any land to which, in the opinion of the Local Government, the provisions of sub-section (1) or sub-section (2) are applicable, the Local Government may direct that the provisions of section 5A shall not apply, and, if it does so direct, a declaration may be made under section 6 in respect of the land at any time after the publication of the notification under section 4, sub-section (1)."

Amendment
of section 23,
Act I of 1894.

7. In clause *first* of sub-section (1) of section 23 of the said Act, for the words " declaration relating thereto under section 6; " the words " notification under section 4, sub-section (1), " shall be substituted.

Amendment
of section 24,
Act I of 1894.

8. In clause *seventhly* of section 24 of the said Act, for the words " declaration under section 6 " the

the words “ notification under section 4, sub-section (1),” shall be substituted.

9. In sub-section (1) of section 40 of the said Act, after the word “satisfied,” the words “either” on the report of the Collector under section 5A, sub-section (2), or ” shall be inserted Amendment of section 40, Act I of 1894.

10. In section 41 of the said Act,—

(a) the words “ Such officer shall report to the Local Government the result of the inquiry, and,” shall be omitted; and Amendment of section 41, Act I of 1894.

(b) after the word “ satisfied ” the following words shall be inserted, namely:—

“ after considering the report, if any, of the Collector under section 5A, sub-section (2), or on the report of the officer making an inquiry under section 40.”

CALCUTTA
SUPERINTENDENT GOVERNMENT PRINTING, INDIA
8, HASTINGS STREET

ACT No. XXXIX OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the
5th August, 1923.)*

An Act further to amend the Indian Ports Act, 1908.

XV of 1908. **WHEREAS** it is expedient further to amend the Indian Ports Act, 1908; It is hereby enacted as follows :—

1. This Act may be called the Indian Ports Short title.
(Amendment) Act, 1923.

XV of 1908. 2. In sub-section (1) of section 6 of the Indian Amendment
of section 6,
Act XV of
1908.
Ports Act, 1908 (hereinafter referred to as the said
'Act), after clause (e) the following clause shall be
inserted, namely :—

“(ee) for regulating the manner in which oil or
water mixed with oil shall be discharged in any such
port and for the disposal of the same;”.

3. In section 21 of the said Act—

(a) to sub-section (1) after the word “land-
floods” the following shall be added,
namely :—

Amendment
of section 21
Act XV of
1908.

“and no oil or water mixed with oil shall
be discharged in or into any such
port, to which any rules made under
clause (ee) of sub-section (1) of sec-
tion 6 apply, otherwise than in
accordance with such rules”;

(b) in sub-section (2)—

(i) after the words “such other thing”
the words “or so discharges any oil
or water mixed with oil” shall be
inserted, and

(ii) for

Indian Ports (Amendment). [ACT XXXIX OF 1923.]

- (ii) for the words “ or thrown ” the words
“ thrown or discharged ” shall be
substituted; and
- (c) in sub-section (3)—
 - (i) after the words “ such other thing ”
the words “ or from so discharging
any oil or water mixed with oil ”
shall be inserted, and
 - (ii) for the words “ or throw it ” the words
“ throw or discharge the same ” shall
be substituted; and
- (d) in sub-section (4), after the words “ thrown
into ” the words “ or the oil or water
mixed with oil is discharged in or into ”
shall be inserted.

ACT No. XL OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
5th August, 1923.)

An Act further to amend the Indian Electricity Act, 1910.

IX of 1910. **W**HEREAS it is expedient further to amend the Indian Electricity Act, 1910; It is hereby enacted as follows:—

1. This Act may be called the Indian Electricity Short title.
(Amendment) Act, 1923.

IX of 1910. 2. After section 29 of the Indian Electricity Act, 1910, the following section shall be inserted, Insertion of new section 29A in Act IX of 1910.
namely:—

“ 29A. The provisions of sub-sections (3) and Application of section 18 to aerial lines maintained by railways.
(4) of section 18 and of the *Explanation* thereto shall apply in the case of any aerial line placed by any railway administration as defined in section 3 of the
IX of 1890. Indian Railways Act, 1890, as if references therein to the licensee were references to the railway administration.”

[Price one anna.]

ACT No. XLI OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

*(Received the assent of the Governor General on the
5th August, 1923.)*

An Act to amend the Charitable and Religious Trusts Act, 1920.

XIV of 1920. **W**HEREAS it is expedient to amend the Charitable and Religious Trusts Act, 1920; It is hereby enacted as follows:—

1. This Act may be called the Charitable and Religious Trusts (Amendment) Act, 1923. Short title.

XIV of 1920. 2. In section 2 of the Charitable and Religious Trusts Act, 1920, after the words “the Court of the District Judge”, the words “or any other Court empowered in that behalf by the Local Government” shall be inserted. Amendment of section 2, Act XIV of 1920.

[Price one anna.]

ACT No. XLII OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
5th August, 1923.)

An Act to make provision for the better management of wakf property and for ensuring the keeping and publication of proper accounts in respect of such properties.

WHEREAS it is expedient to make provision for the better management of wakf property and for ensuring the keeping and publication of proper accounts in respect of such properties; It is hereby enacted as follows:—

Preliminary.

1. (1) This Act may be called the Mussalman Wakf Act, 1923;

Short title,
extent and
commence-
ment.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas;

(3) This section shall come into force at once; and

(4) The Local Government may, by notification in the local official Gazette, direct that the remaining provisions of this Act, or any of them which it may specify, shall come into force in the Province, or any specified part thereof, on such date as it may appoint in this behalf.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(a) “benefit” does not include any benefit which a mutwalli is entitled to claim solely

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solely by reason of his being such mutwalli;

- (b) " Court " means the Court of the District Judge or, within the limits of the ordinary original civil jurisdiction of a High Court, such Court, subordinate to the High Court, as the Local Government may, by notification in the local official Gazette, designate in this behalf;
- (c) " mutwalli " means any person appointed either verbally or under any deed or instrument by which a wakf has been created or by a Court of competent jurisdiction to be the mutwalli of a wakf, and includes a naib-mutwalli or other person appointed by a mutwalli to perform the duties of the mutwalli, and, save as otherwise provided in this Act, any person who is for the time being administering any wakf property;
- (d) " prescribed " means prescribed by rules made under this Act; and
- (e) " wakf " means the permanent dedication by a person professing the Mussalman faith of any property for any purpose recognised by the Mussalman law as religious, pious or charitable, but does not include any wakf, such as is described in section 3 of the Mussalman Wakf Validating Act, 1913, under which any benefit is for the time being claimable for himself by the person by whom the wakf was created or by any of his family or descendants. VI of 1913.

Statements of Particulars.

Obligation to furnish particulars relating to wakf. 3. (1) Within six months from the commencement of this Act every mutwalli shall furnish to the Court within the local limits of whose jurisdiction the

the property of the wakf of which he is the mutwalli is situated or to any one of two or more such Courts, a statement containing the following particulars, namely :—

- (o) a description of the wakf property sufficient for the identification thereof;
- (b) the gross annual income from such property;
- (c) the gross amount of such income which has been collected during the five years preceding the date on which the statement is furnished, or of the period which has elapsed since the creation of the wakf, whichever period is shorter;
- (d) the amount of the Government revenue and cesses, and of all rents, annually payable in respect of the wakf property;
- (e) an estimate of the expenses annually incurred in the realisation of the income of the wakf property, based on such details as are available of any such expenses incurred within the period to which the particulars under clause (c) relate;
- (f) the amount set apart under the wakf for—
 - (i) the salary of the mutwalli and allowances to individuals;
 - (ii) purely religious purposes;
 - (iii) charitable purposes;
 - (iv) any other purposes; and
- (g) any other particulars which may be prescribed.

(2) Every such statement shall be accompanied by a copy of the deed or instrument creating the wakf or, if no such deed or instrument has been executed or a copy thereof cannot be obtained shall contain full particulars, as far as they are known to the

the mutwalli, of the origin, nature and objects of the wakf.

(3) Where—

- (a) a wakf is created after the commencement of this Act, or
- (b) in the case of a wakf such as is described in section 3 of the Wakf Validating Act, ^{VI of 1913.} 1913, the person creating the wakf or any member of his family or any of his descendants is at the commencement of this Act alive and entitled to claim any benefit thereunder,

the statement referred to in sub-section (1) shall be furnished, in the case referred to in clause (a), within six months of the date on which the wakf is created or, if it has been created by a written document, of the date on which such document is executed, or, in the case referred to in clause (b), within six months of the date of the death of the person entitled to such benefit as aforesaid, or of the last survivor of any such persons, as the case may be.

Publication
of particulars
and requisition
of further
particulars.

4. (1) When any statement has been furnished under section 3, the Court shall cause notice of the furnishing thereof to be affixed in some conspicuous place in the Court-house and to be published in such other manner, if any, as may be prescribed, and thereafter any person may apply to the Court by a petition in writing, accompanied by the prescribed fee, for the issue of an order requiring the mutwalli to furnish further particulars or documents.

(2) On such application being made, the Court may, after making such inquiry, if any, as it thinks fit, if it is of opinion that any further particulars or documents are necessary in order that full information may be obtained regarding the origin, nature or objects of the wakf or the condition or management of the wakf property, cause to be served on the mutwalli an order requiring him to furnish such particulars or documents within such time as the Court may direct in the order.

Statement

Statement of Accounts, and Audit.

5. Within three months after the thirty-first day of March next following the date on which the statement referred to in section 3 has been furnished, and thereafter within three months of the thirty-first day of March in every year, every mutwalli shall prepare and furnish to the Court to which such statement was furnished a full and true statement of accounts, in such form and containing such particulars as may be prescribed, of all moneys received or expended by him on behalf of the wakf of which he is the mutwalli during the period of twelve months ending on such thirty-first day of March or, as the case may be, during that portion of the said period during which the provisions of this Act have been applicable to the wakf : Statement of accounts.

Provided that the Court may, if it is satisfied that there is sufficient cause for so doing, extend the time allowed for the furnishing of any statement of accounts under this section.

6. Every statement of accounts shall, before it is furnished to the Court under section 5, be audited— Audit of account.

(a) in the case of a wakf the gross income of which during the year in question, after deduction of the land-revenue and cesses, if any, payable to the Government, exceeds two thousand rupees, by a person who is the holder of a certificate granted by the Local Government under section 144 of the Indian Companies Act, 1913, or is a member of any institution or association the members of which have been declared under that section to be entitled to act as auditors of companies throughout British India; or

(b) in the case of any other wakf, by any person authorised in this behalf by general or special order of the said Court.

General

General Provisions.

Mutwalli
entitled to
pay cost of
audit, etc.,
from wakf
funds.

7. Notwithstanding anything contained in the deed or instrument creating any wakf, every mutwalli may pay from the income of the wakf property, any expenses properly incurred by him for the purpose of enabling him to furnish any particulars, documents or copies under section 3 or section 4 or in respect of the preparation or audit of the annual accounts for the purposes of this Act.

Verification.

8. Every statement of particulars furnished under section 3 or section 4, and every statement of accounts furnished under section 5, shall be written in the language of the Court to which it is furnished, and shall be verified in the manner provided in the Code of Civil Procedure, 1908, for the signing v of 1908 and verification of pleadings.

Inspection
and copies.

9. Any person shall, with the permission of the Court and on payment of the prescribed fee, at any time at which the Court is open, be entitled to inspect in the prescribed manner, or to obtain a copy of, any statement of particulars or any document furnished to the Court under section 3 or section 4, or any statement of accounts furnished to it under section 5, or any audit report made on an audit under section 6.

Penalty.

Penalties.

10. Any person who is required by or under section 3 or section 4 to furnish a statement of particulars or any document relating to a wakf, or who is required by section 5 to furnish a statement of accounts, shall, if he, without reasonable cause the burden of proving which shall lie upon him, fails to furnish such statement or document, as the case may be, in due time, or furnishes a statement which he knows or has reason to believe to be false, misleading or untrue in any material particular, or, in the case of a statement of accounts, furnishes a statement which has not been audited in the manner required by section 6, be punishable with fine which may extend to five hundred rupees, or, in the case

of

of a second or subsequent offence, with fine which may extend to two thousand rupees.

Rules.

11. (1) The Local Government may, after previous publication, by notification in the local official Gazette, make rules to carry into effect the purposes of this Act. Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the additional particulars to be furnished by mutwallis under clause (g) of sub-section (1) of section 3;
- (b) the fees to be charged upon applications made to a Court under sub-section (1) of section 4;
- (c) the form in which the statement of accounts referred to in section 5 shall be furnished, and the particulars which shall be contained therein;
- (d) the powers which may be exercised by auditors for the purpose of any audit referred to in section 6, and the particulars to be contained in the reports of such auditors;
- (e) the fees respectively chargeable on account of the allowing of inspections and of the supply of copies under section 9;
- (f) the safe custody of statements, audit reports and copies of deeds or instruments furnished to Courts under this Act; and
- (g) any other matter which is to be or may be prescribed.

12. Nothing in this Act shall—

Savings.

- (a) affect any other enactment for the time being in force in British India providing for the

Mussalman Wakf. [ACT XLII OF 1923.]

the control or supervision of religious or charitable endowments; or

(b) apply in the case of any wakf the property of which—

(i) is being administered by the Treasurer of Charitable Endowments, the Administrator General, or the Official Trustee; or

(ii) is being administered either by a receiver appointed by any Court of competent jurisdiction, or under a scheme for the administration of the wakf which has been settled or approved by any Court of competent jurisdiction or by any other authority acting under the provisions of any enactment.

Exemption.

13. The Local Government may, by notification in the local official Gazette, exempt from the operation of this Act or of any specified provision thereof any wakf or wakfs created or administered for the benefit of any specified section of the Mussalman community.

ACT NO. XLIII OF 1923.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 1st October, 1923.)

An Act further to amend the Indian Stamp Act, 1899.

II of 1899. **W**HEREAS it is expedient further to amend the Indian Stamp Act, 1899; It is hereby enacted as follows:—

1. This Act may be called the Indian Stamp Short title.
(Amendment) Act, 1923.

II of 1899. 2. In Schedule I to the Indian Stamp Act, Amendment of Schedule I, Act II of 1899.
1899,—

(i) In each of the following Articles, namely, No. 19, No. 36, No. 37 and No. 52, in the second column, for the words “ One anna ” the words “ Two annas ” shall be substituted;

(ii) In Article No. 47—

(a) in Division B, in the first column, for the words “ Fire-Insurance ” the words “ Fire-Insurance and other classes of Insurance, not elsewhere included in this Article, covering goods, merchandise, personal effects, crops, and other property against loss or damage; ” and

(b) in Division E, in the first column, for the words “ of sea-insurance or a policy of fire-insurance ” the words “ of the nature specified in Division A or Division B of this Article ”

shall be substituted;

(iii) For

1

[Price one anna and three pies.]

(iii) For Article No. 49 the following shall be substituted, namely :—

“ Promissory note [as defined by section 2 (22)]—

(a) when payable on demand—

(i) when the amount
or value does not
exceed Rs. 250; One anna.

(ii) when the amount
or value exceeds
Rs. 250 but does
not exceed
Rs. 1,000; Two annas.

(iii) in any other case Four annas.

(b) when payable otherwise than on demand. The same duty as
a Bill of Exchange
(No. 13) for the
same amount pay-
able otherwise than
on demand.”

THE INDIAN FINANCE ACT, 1923.

(Made by the Governor General on the 29th March, 1923)

An Act to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary the duty leviable on certain articles under the Indian Tariff Act, 1894, to fix maximum rates of postage under the Indian Post Office Act, 1898, to amend the Indian Paper Currency Act, 1923, and to fix rates of income-tax.

VIII of 1894.
VI of 1898.
X of 1923.

WHEREAS it is expedient to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary the duty leviable on certain articles under the Indian Tariff Act, 1894, to fix maximum rates of postage under the Indian Post Office Act, 1898, to amend the Indian Paper Currency Act, 1923, and to fix rates of income-tax; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Finance Act, 1923. Short title, extent and duration.

(2) It extends to the whole of British India, including the Sonthal Parganas and British Baluchistan.

(3) Sections 2, 4 and 6 shall remain in force only up to the 31st day of March, 1924.

XII of 1882.

2. (1) The provisions of section 7 of the Indian Salt Act, 1882, shall, in so far as they enable the Governor General in Council to impose by rule made under that section a duty on salt manufactured in, or imported into, any part of British India other than Burma and Aden, be construed as if, with effect from the first day of March, 1923, they imposed such duty at the rate of two rupees and eight annas per maund of eighty-two and two-sevenths pounds avoirdupois of salt manufactured in, or imported by land into, any such part, and such duty shall, for all the

Fixation of salt duty.

the purposes of the said Act, be deemed to have been imposed by rule made under that section.

(2) With effect from the first day of March, 1923, section 2 of the Indian Finance Act, 1922, is hereby repealed.

Amendment
of Act VIII
of 1894.

3. (1) In Schedule II to the Indian Tariff Act, 1894, the amendments specified in the First Schedule of 1894. to this Act shall be made.

(2) In Schedule III to the same Act, in item No. 3, for the entry in the fourth column the entry "5 per cent." shall be substituted.

(3) The amendments made in the Indian Tariff Act, 1894, by this section shall have effect from the first day of March, 1923.

Postal rates.

4. With effect from the first day of April, 1923, the Schedule contained in the Second Schedule to this Act shall be inserted in the Indian Post Office Act, 1898, as the First Schedule to that Act.

VI of 1898.

Amendment
of Act X of
1923.

5. In sub-section (7) of section 19 of the Indian Paper Currency Act, 1923, for the figures "1923" the figures "1924" shall be substituted.

X of 1923.

Income-tax
and super-
tax.

6. (1) Income-tax for the year beginning on the first day of April, 1923, shall be charged at the rates specified in Part I of the Third Schedule.

(2) The rates of super-tax for the year beginning on the first day of April, 1923, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922, be those specified in Part II of the Third Schedule.

XI of 1922.

(3) For the purposes of the Third Schedule, "total income" means total income as defined in clause (15) of section 2 of the Indian Income-tax Act, 1922.

XI of 1922.

SCHEDULE I.

Amendments to be made in Schedule II to the Indian Tariff Act, 1894.

[See section 3 (1).]

1. In item No. 4, after the words "all sorts" the words "except ochres and other pigment ores" shall be added.

2. For

2. For item No. 14 the following shall be substituted, namely:—

“CINCHONA BARK and the alkaloids extracted therefrom including QUININE.”

3. In item No. 29, for the words “spirit, which has been rendered effectually and permanently unfit for human consumption” the words “Denatured Spirit” shall be substituted.

4. In item No. 30, to the entry in the fourth column the words “or 15 per cent. *ad valorem*, whichever is higher” shall be added.

5. In item No. 31, the following shall be added to each of the entries in the fourth column, namely:—

“or 15 per cent. *ad valorem*, whichever is higher.”

6. In item No. 34, in the second column, the words “and saccharine produce of all sorts” shall be omitted.

7. After item No. 34 the following heading and items shall be inserted, namely:—

SACCHARINE.			
34A.	SACCHARINE (except in tablets)	Pound .	20 0
34B	SACCHARINE TABLETS . .	<i>Ad valorem</i> .	25 per cent. or Rs. 20 per pound of saccharine contents, whichever ever is higher.”

8. In item No. 43, for the entry in the fourth column, the following shall be substituted, namely:—“24-0 or 15 per cent. *ad valorem*, whichever is higher.”

9. For item No. 51 the following items shall be substituted, namely:—

“51 | MACHINERY, namely, such of the following articles as are not specified in any of the following numbers, namely, Nos. 15, 16, 53, 54, 55, 87, 90-A, 96, 103, 111 and 127:—

- (1) prime-movers, boilers, locomotive engines and tenders for the same, portable engines (including power-driven road rollers, fire engines and tractors), and other machines in which the prime-mover is not separable from the operative parts;
- (2) machines and sets of machines to be worked by electric, steam, water, fire or other power, not being manual or animal labour, or which before being brought into use require to be fixed with reference to other moving parts;
- (3) apparatus and appliances, not to be operated by manual or animal labour, which are designed for use in an industrial system as parts indispensable for its operation and have been

given

given for that purpose some special shape or quality which would not be essential for their use for any other purpose;

(4) control gear, self-acting or otherwise, and transmission-gear designed for use with any machinery above specified, including belting of all materials and driving chains but not driving ropes;

(5) bare hard-drawn electrolytic copper wires and cables and other electrical wires and cables, insulated or not; and poles, troughs, conduits and insulators designed as parts of a transmission system, and the fittings thereof.

Note.—The term “industrial system” used in sub-clause (3) means an installation designed to be employed directly in the performance of any process or series of processes necessary for the manufacture, production or extraction of any commodity.

51A

COMPONENT PARTS OF MACHINERY, as defined in No. 51, namely, such parts only as are essential for the working of the machine or apparatus and have been given for that purpose some special shape or quality which would not be essential for their use for any other purpose:

Provided that articles which do not satisfy this condition shall also be deemed to be component parts of the machine to which they belong if they are essential to its operation and are imported with it in such quantities as may appear to the Collector of Customs to be reasonable.”

10. Item No. 52 and the heading thereto shall be omitted.

11. Item No. 56 shall be omitted.

12. For item No. 61 the following shall be substituted, namely:—

“ 61

IRON OR STEEL, anchors and cables.

“ “ beams, joists, pillars, girders and other structural shapes, whether fabricated or not, screw piles, bridge work and other descriptions of iron or steel not ordinarily used for other than building purposes; including ridging, guttering, flashing and continuous roofing; also including expanded metal and other descriptions of iron or steel designed for use in the reinforcing of concrete; but not including builders’ hardware, that is to say, grates, stoves, ventilators, door and window fittings and the like; (*See* No. 90).

“ “ bolts and nuts, including hook-bolts and nuts for roofing.

“ “ hoops and strips.

“ “ nails, rivets and washers, all sorts.

“ “ pipes and tubes and fittings therefor, that is to say, bends, boots, elbows, tees, sockets, flanges, plugs, valves, cocks and the like.

IRON OR STEEL,

	IRON OR STEEL, rails, chairs, sleepers, bearing and fish-plates, spikes (commonly known as dog-spikes), switches and crossings, other than those described in No. 63, also lever-boxes, clips and tie-bars.
"	" sheets and plates, all sorts, whether fabricated or not, including discs and circles.
"	" wire, including fencing-wire, piano-wire and wire-rope, but excluding wire-netting (<i>See</i> No. 97)."

13. In item No. 63, the words " engines, tenders " shall be omitted, and for the second proviso, the following proviso shall be substituted, namely:—

" Provided also that nothing shall be deemed to be dutiable hereunder which is dutiable under No. 51 or No. 51A."

14. After item No. 63 the following item shall be inserted, namely:—

" 63A	COMPONENT PARTS OF RAILWAY MATERIALS, as defined in No. 63, namely, such parts only as are essential for the working of railways and have been given for that purpose some special shape or quality which would not be essential for their use for any other purpose: Provided that articles which do not satisfy this condition shall also be deemed to be component parts of the railway material to which they belong, if they are essential to its operation and are imported with it in such quantities as may appear to the Collector of Customs to be reasonable."
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15. To item No. 64 the following proviso shall be added, namely:—

" Provided that articles of machinery as defined in No. 51 or No. 51A shall, when separately imported, not be deemed to be included hereunder."

16. For item No. 87 and the heading thereto the following shall be substituted, namely:—

" CONVEYANCES.

87	CONVEYANCES, including tramcars, motor-omnibuses, motor-lorries, motor-vans, passenger lifts, carriages, carts, jinrikshas, bath-chairs, perambulators, trucks, wheel barrows, bicycles, tricycles and all other sorts of conveyances not otherwise specified, and component parts and accessories thereof, except such parts and accessories of the motor vehicles above-mentioned as are also adapted for use as parts or accessories of motor cars, motor cycles or motor scooters (<i>See</i> No. 127)."
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17. After item No. 90 the following item shall be inserted, namely:—

" 90A	ELECTRICAL CONTROL GEAR AND TRANSMISSION GEAR, namely, switches, fuses and current-breaking devices of all sorts and descriptions, designed for use in circuits of
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of less than ten *amperes* and at a pressure not exceeding 250 volts, and regulators for use with motors designed to consume less than 187 watts; bare or insulated copper wires and cables, any one core of which has a sectional area of less than one-eightieth part of a square inch, and wires and cables of other metals of not more than equivalent conductivity; and line insulators, including also cleats, connectors, leading-in tubes and the like, of types and sizes such as are ordinarily used in connection with the transmission of power for other than industrial purposes, and the fittings thereof."

18. To item No. 96 the following shall be added, namely:—

"and any machines (except such as are designed to be used exclusively in industrial processes) which require for their operation less than one quarter of one brake-horse-power."

19. In item No. 103, after the word "tiles" the words "firebricks not being component parts of any article included in No. 51 or No. 63" shall be inserted, and after the word "specified" the words "including bitumen and other insulating materials" shall be added.

20. In item No. 127, the words "bicycles and tricycles" and the words "or of bicycles or tricycles" shall be omitted.

21. To item No. 130 the words "and parts thereof" shall be added.

22. In item No. 139, the word "and" shall be inserted after the word "cycles" and the words "bicycles and tricycles" shall be omitted.

SCHEDULE II.

Schedule to be inserted in the Indian Post Office Act, 1898.

(See section 4.)

"THE FIRST SCHEDULE.

INLAND POSTAGE RATES.

(See section 7.)

Letters.

For a weight not exceeding two and a half tolas	One anna.
For every two and a half tolas, or fraction thereof, exceeding two and a half tolas	One anna.

Postcards.

Single	:	:	:	:	:	:	:	Half an anna.
Reply	:	:	:	:	:	:	:	One anna.

Book,

1923.]

The Indian Finance.

Book, Pattern and Sample Packets.

For every five tolas or fraction thereof . . . Half an anna.

Registered Newspapers.

For a weight not exceeding eight tolas . . . Quarter of an anna.

For a weight exceeding eight tolas and not exceeding twenty tolas . . . Half an anna.

For every twenty tolas, or fraction thereof, exceeding twenty tolas . . . Half an anna.

Parcels.

For a weight not exceeding twenty tolas . . . Two annas.

For a weight exceeding twenty tolas and not exceeding forty tolas . . . Four annas.

For every forty tolas, or fraction thereof, exceeding forty tolas . . . Four annas."

SCHEDULE III.

(See section 6.)

PART I.

Rates of Income-tax.

	Rate.
A. In the case of every individual, every un-registered firm and every undivided Hindu family—	
(1) When the total income is less than Rs. 2,000.	Nil.
(2) When the total income is Rs. 2,000 or upwards, but is less than Rs. 5,000.	Five pies in the rupee.
(3) When the total income is Rs. 5,000 or upwards, but is less than Rs. 10,000.	Six pies in the rupee.
(4) When the total income is Rs. 10,000 or upwards, but is less than Rs. 20,000.	Nine pies in the rupee.
(5) When the total income is Rs. 20,000 or upwards, but is less than Rs. 30,000.	One anna in the rupee.
(6) When the total income is Rs. 30,000 or upwards, but is less than Rs. 40,000.	One anna and three pies in the rupee.
(7) When the total income is Rs. 40,000 or upwards.	One anna and six pies in the rupee.
B. In the case of every company, and every registered firm, whatever its total income.	One anna and six pies in the rupee.

PART II.

Rates of Super-tax.

In respect of the excess over fifty thousand rupees of total income:—

	Rate.
(1) in the case of every company . . .	One anna in the rupee.

(2) (a) in

	Rate.
(2) (a) in the case of every Hindu undivided family—	
(i) in respect of the first twenty-five thousand rupees of the excess.	<i>Nil.</i>
(ii) for every rupee of the next twenty-five thousand rupees of such excess.	One anna in the rupee.
(b) in the case of every individual and every unregistered firm, for every rupee of the first fifty thousand rupees of such excess.	One anna in the rupee.
(c) in the case of every individual, every unregistered firm and every Hindu undivided family—	
(i) for every rupee of the second fifty thousand rupees of such excess.	One and a half annas in the rupee.
(ii) for every rupee of the next fifty thousand rupees of such excess.	Two annas in the rupee.
(iii) for every rupee of the next fifty thousand rupees of such excess.	Two and a half annas in the rupee.
(iv) for every rupee of the next fifty thousand rupees of such excess.	Three annas in the rupee.
(v) for every rupee of the next fifty thousand rupees of such excess.	Three and a half annas in the rupee.
(vi) for every rupee of the next fifty thousand rupees of such excess.	Four annas in the rupee.
(vii) for every rupee of the next fifty thousand rupees of such excess.	Four and a half annas in the rupee.
(viii) for every rupee of the next fifty thousand rupees of such excess.	Five annas in the rupee.
(ix) for every rupee of the next fifty thousand rupees of such excess.	Five and a half annas in the rupee.
(x) for every rupee of the remainder of the excess.	Six annas in the rupee.

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*These Schedules were amended by s. 3 of the Indian Finance Act, 1923, which was made by the Governor General under s. 67B of the Government of India Act and to which no number was given.

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*This was inserted by s. 4 of the Indian Finance Act, 1923, which was made by the Governor General under s. 67B of the Government of India Act and to which no number was given.

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*Section 2 was repealed by s. 2(2) of the Indian Finance Act, 1923, which was made by the Governor General under s. 67B of the Government of India Act and to which no number was given.

†Section 19 was also amended by s. 5, *ibid.*

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*This Act was made by the Governor General under s. 67B of the Government of India Act.

†No number was given to this Act.

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